

**INVESTIGATION INTO MINORITY AND WOMEN BUSINESS  
PARTICIPATION IN CITY CONTRACTING**

**COMPREHENSIVE EDITION:  
Findings, Recommendations and Support Documentation**

**A Report by the Human Rights Commission of San Francisco  
1095 Market Street, Suite 501  
San Francisco, California 94103**

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**October, 1988**

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October 20, 1988

San Francisco Board of Supervisors  
City Hall, Room 235  
San Francisco, California 94102

Attention: Mr. John Taylor  
Clerk of the Board

Dear President Nancy Walker and  
Members of the Board of Supervisors:

Pursuant to the City's Administrative Code Chapter 12D (Minority/Women/Local Business Enterprise Ordinance 139-84), the Human Rights Commission at its meeting of October 13, 1988, voted unanimously to certify to the Board of Supervisors that the purposes identified in Section 12D.3 of the Ordinance, have not been achieved as documented by the accompanying report, "Investigation into Minority and Women Business Participation in City Contracting Report." The Human Rights Commission recommend to the Board of Supervisors that the legislation be extended as prescribed in Section 12D.15 of the Ordinance.

These findings are based upon data, public hearings, meetings and other relevant information presented to the Human Rights Commission, in accordance with the sunset clause requirements of the Ordinance.

Sincerely,

A handwritten signature in cursive script that reads "Frank Anderson".

Frank Anderson  
Interim Director

FA:pa  
[Lts]KP2-40



# INVESTIGATION INTO MINORITY AND WOMEN BUSINESS PARTICIPATION IN CITY CONTRACTING

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### Preface

The Human Rights Commission wishes to thank all persons who participated in the development of this report, especially the considerable expenditure of their time on the public hearings and other meetings.

Special thanks are extended to the members of the HRC's Minority/Women/Local Business Enterprise Community Advisory Committee, City departments, the HRC staff, Mr. Grant Mickins (retired HRC director), Ms. Mara Rosales (deputy city attorney), Ms. Mary Butler (court reporter), and Mr. Norman Ishimoto (consultant) for their technical assistance.

Again, thank you for your collective efforts to implement and continue the City's policy of the full and equitable participation of Minority, Women, and Local Business Enterprises as prime contractors in the procurement of goods and services by the City.



## CHAPTER ONE: METHODOLOGY AND PROCEDURES

### Regulatory Foundation and Objectives. The MBE/WBE/LBE

Ordinance (139-84) was approved by then-Mayor Dianne Feinstein on April 11, 1984. This Ordinance provided in Section 12D.15.(A) for its expiration five years from its effective date - May 11, 1989 - unless the Human Rights Commission, after conducting hearings, finds that the purposes identified in Section 12D.3 have not yet been achieved.

In that case, HRC shall certify said finding to the Board of Supervisors no later than 200 days prior to May 11, 1989. This deadline was October 23, 1988.

In accordance with the Ordinance, therefore, HRC conducted public hearings on June 30 and July 14, 1988, to determine whether: (1) the present effect of prior racial/gender discrimination against MBE/WBEs has been remedied; and (2) economic disadvantages faced by LBEs have been offset. The Commission also developed and analyzed data concerning program actions from 1984 to date.

Public Hearings. During June, HRC prepared to conduct the two public hearings. It issued:

--an "Announcement of Public Hearing to Extend The Minority/Women/Local Business Enterprise Program" (Appendix A, undated)

--a form inviting public testimony at the June 30 Hearings, and an answer to the question "Should the Minority/-Women/Local Business Enterprise Program be

continued?" with room for an explanation (Appendix D, undated)

--a July 1 letter inviting testimony at the July 14 hearing (Appendix B).

The hearings were conducted by HRC Chairperson George Suncin. All proceedings were tape recorded (microphone-assisted) and transcribed verbatim. HRC staff provided the administrative support.

Nineteen people representing businesses and groups within the community spoke at the June 30 hearing; 23 spoke at the July 14 hearing.

Six Department representatives spoke at the July 14 hearing.

Eighty-one people signed the June 30 attendance roster, and 65 signed the July 14 roster, including those who spoke. All who appeared and wished to speak were accommodated.

In addition, representatives of the City Attorney, Human Rights Commission staff, a Health Commissioner, and the past Director of the Human Rights Commission spoke at either or both hearings.

Written testimony was solicited; 127 written responses were submitted; 24 who testified orally also submitted written testimony which reiterated their oral remarks.

## CHAPTER TWO: DATA COLLECTION

This chapter contains summary statements from the oral and written testimony submitted by members of the interested public and City departments.

The statements are presented in chronological order of appearance before the Commission in oral, public session.

At several points, Commissioners and the City Attorney asked questions of the witnesses; these exchanges are summarized at the point where they occurred.

Note: In addition to testimony from the public and City departments, there were comments provided by Deputy City Attorney Mara Rosales and HRC staff Contract Compliance Officer Pansy Waller.

Ms. Rosales pointed out that the purpose of the public hearings was to receive testimony from prime contractors who do, or wish to do, business with the City, and from subcontractors who wish to develop their status as prime contractors.

The term "contractors" pertained to the whole range of agreements subject to the Ordinance, including construction, purchasing, personal services, professional contracts, architects, engineering, leases, franchises, and concessions.

The Human Rights Commission must recommend to the Board of Supervisors by October 23, 1988, whether to extend, repeal, or modify the Ordinance. The Commission's findings must be based upon the public testimony, information from City departments, and problems brought to its attention.



Ms. Rosales then reviewed two broad categories of inquiry. The first is whether the Ordinance has succeeded in opening up the contracting process to minority and women owned businesses.

She described the 1981-82 findings of the Commission, that they were virtually excluded from doing business with the City, and that the lack of business was not due to any lack of minority and women contractors and suppliers.

She noted some of the problems found: bonding and insurance, and other fee-related items. She noted that an "old boy" network gave the same contractors business, and excluded others. Ms. Rosales also explained that the lack of minority and women business contractors with The City was alleged to be a result of discrimination by city departments.

The other major category of inquiry was the local business component addressed by the Ordinance: the fact that local businesses, not just the MBEs and WBEs, faced economic disadvantages which were essentially the higher cost of doing business here.

Therefore, Ms. Rosales said, the Board decided that a bid preference should be extended to encourage local firms to stay in San Francisco, to contribute to the economic health and employ San Franciscans.

Thus, the second goal is to determine to what effect the Ordinance has offset the disadvantages faced by local businesses, and whether a bid preference for local businesses should be continued.

The Board of Supervisors will have from between October 1988

to May 1989 to decide on whether to continue, modify, or discontinue the Ordinance.

Ms. Rosales gave a brief description of the lawsuit filed by the Associated General Contractors of California against this Ordinance.

The AGC claimed that the bid preferences violated the Low Responsible Bid provision of the Charter. Furthermore, AGC charged that their rights under the Equal Protection Clause of the Constitution were violated by giving preferences to others.

The United States Court of Appeals for the Ninth Circuit ruled in March 1987 that the Minority Business Preference violated the Constitution and City Charter and that the Local and Women's Business Preferences were Constitutionally sound but in the case of some contracts these preferences violated the Charter.

The City Attorney filed a petition for reconsideration, which automatically stayed the 1987 decision; as of the hearing date, no decision had been rendered over those 15 months. She expressed the hope that the delay inferred an ultimate decision favorable to the City.

In the July 14, 1988, hearing, Ms. Rosales again reviewed the events described above and presented an update. She stated that on July 1, 1988, AGC filed a Motion for an Injunction Pending Appeal, i.e., a request for the Court to enforce its 1987 decision against the City. Her office filed a brief in opposition on July 11, 1988.

Ms. Rosales also noted that there may be one additional

Commission proceeding to examine all the evidence submitted, and to decide on its final recommendations to the Supervisors.

Ms. Waller stated that she has been assigned for eighteen months to collect data from City departments each quarter regarding their contracting activity. She also prepares the annual report to the Commission of progress towards the MBE/WBE contracting goals.

She stated that she would provide an overview of contract participation, based upon information provided by awarding departments to HRC, and without independent verification.

She noted that Chapter 12D defines "eligible contract dollars" as excluding contracts with non-profit agencies, contracts awarded according to Federal or State of California requirements that conflict with or pre-empt the Ordinance, and contracts which the Director exempts.

As a result, the total contracting value of all prime contracts is \$800,000,000, as estimated in May 1988 by the Board of Supervisors' Budget Analyst.

For fiscal year 1986-87, "eligible contract dollars" as reported to HRC amounted to \$151,671,120. MBEs were awarded \$36,038,416 - 23.7% participation. WBEs received \$3,818,357 - 2.5 percent. MBEs were awarded 4.54% of the \$800,000,000 of prime contracts; WBEs received 0.48% of all contracts.

Thus, the Ordinance's MBE and WBE goals have not been met by the City.

Ms. Waller stated she would submit detailed analyses of fiscal years 84-85, 85-86, and 86-87 for the record. (Appendix H)



1. Public Testimony

A. Oral Public Testimony

Julian D. Munoz  
President  
Group 4/Architecture, Research and Planning

Mr. Munoz commended HRC for its efforts to integrate MBEs and WBEs into the business mainstream, and supported continuing the program.

He credited the program for much of his firm's success over 14 years, citing work on airport terminals, public works projects, and the Candlestick Park expansion. He said there are many young, aspiring, and well-qualified firms who benefit from the program.

Al Borvice  
Attorney at Law

Mr. Borvice commended the Commission for holding the hearings and commended the HRC staff as objective and helpful. He supported extending the ordinance, characterizing its purpose as to help the City's minority communities to partake of the City's tax base. He noted that the Asian, Black, and Hispanic communities comprise at least half of the population.

Because the program is new, he felt that the departments have not had enough time to implement the necessary programs to aid minority and woman owned businesses. He cited the "chilling effect" of the litigation against the program.

Neil Advani  
President, Greater Bay Area Chapter  
National Association of Women Business Owners

Ms. Advani thanked the City and staff for the Ordinance and program, and supported continuation of the program.

She spoke to problems that need correction for the program to be effective. Often, city departments pay only lip service; the process is cumbersome and bureaucratic. As a result, business owners go around in circles trying to do business.

She recommended that the process be standardized and that the City seek out more highly qualified and professional MBEs and WBEs. She also recommended cross-certification between HRC and other agencies, utilities, and corporations.

Ms. Advani also suggested a Steering Committee comprised of representatives from organizations such as hers. Considering the City's tremendous financial constraints, such a coalition could assist developing the program.

Naomi Gray  
President  
Naomi Gray Associates  
(and Member, San Francisco Health Commission)

Supporting extension of the program, Commissioner Gray stated that the program hasn't had an opportunity to prove it can work, most City departments resist its progress, the previous Administration did not give the program strong support, and the new Administration is committed to its enforcement and success.

She said her own MBE/WBE firm has had practically "zero" success in doing business with the City, blaming the departments.

Commissioner Gray stated that the Federal government long ago learned that the program couldn't work without set asides. Approximately four years ago, President Reagan had Federal agencies set aside 16 billion dollars over a three year period for MBE contracts. She attributed her own firm's success to this program.

As Health Commissioner, she stated that she requested a public hearing on that department's implementation of the Ordinance. As a result, on March 17, 1987, the Health Commission resolved to encourage a pilot program at San Francisco General Hospital to increase MBE/WBE participation in procurements by one million dollars in two years. She noted that few other commissions have taken this leadership - citing Airport and Public Utilities as two which have.

Eric Jue  
Chinese for Affirmative Action

Mr. Jue stated that CAA regarded it as "imperative" that the Ordinance be extended. Citing HRC statistics of MBE/WBE contracting over the life of the program, he said that this progress would not have been made without the Ordinance, and that the City needs to do more work.

CAA recommended that certification must be more careful to ensure that the businesses are not fronts; that HRC perform more program outreach; that WBEs receive more technical assistance in light of their receiving only one percent of overall contract monies; that there be more stringent monitoring on City

contractors to meet their M/WBE goals; that there be stricter penalties on contractors who fail to perform good faith efforts and who fail to meet their M/WBE goals; and that there should be greater enforcement of affirmative action upon the M/WBEs themselves.

Peter Lam  
President  
Asian American Architects and Engineers

Mr. Lam stated that the AAAE's membership of over 100 architects, engineers, and other design professionals supported extension of the M/W/LBE Ordinance.

He stated that small MBEs and WBEs form a vital part of the City economy, citing: computing payroll and business taxes, providing entry-level employment opportunities, absorbing primary and secondary commercial rental space, and providing vitality often devoid in corporations.

The Ordinance provides AAAE members the opportunity to gain exposure and experience in new areas. The opportunities, however, are very limited and not open to their general membership. He cited four problem areas.

One was that departments, HRC, and City Attorney interpret the Ordinance differently. AAAE supported the City Attorney's opinion that subcontractors cannot be the same entity as the prime contractor; this interpretation would allow more small firms to get more work.

Second, some MBEs and WBEs monopolize contracts by using the preference point system. He recommended a limitation such as the



system used by the Department of Defense.

Third, the Asian community's population and contribution to the economy should not be ignored in terms of the contracts awarded to Asians.

Fourth, reexamine the size standard of gross income to see if it is doing what it is supposed to do.

AAAE stated it would work with HRC staff to extend and refine the MBE/WBE Ordinance.

Selwyn Whitehead  
Coalition of Bay Area Women-Owned Businesses

Ms. Whitehead demanded that the program be extended.

She stated that one-third to two-thirds of all WBEs are fronts: wives, daughters, girlfriends, or women associates take over the firm in name only. Acknowledging the efforts of the City to fight fronts, she stated that the problem continues.

Fronts cause distrust between WBEs, and other firms seeking joint ventures with them fear that they may be fronts. She stated that on the day previous to this testimony (July 29), a construction company approached a Coalition member proposing that she front for them.

She recommended greater outreach throughout Northern California through printed and electronic media.

Another major issue was the difficulty businesses have locating the proper departmental official, asking that those decision-makers "meet us halfway," especially in the professional services area.

She recommended a departmental-community group mentoring program to build links with qualified, bona-fide WBE and MBE vendors; a regular series of city-wide conferences with departmental decision-makers; and an "in-reach" program to educate City employees to become more receptive to doing business with MBEs and WBEs.

Stephen Lee  
Vice-President  
United Asian Contractors Association

Mr. Lee spoke on behalf of the United Asian Contractors Association, approximately 80 Asian American-owned general and specialty construction contractors in the greater Bay Area. They recommended extending the M/W/LBE Ordinance for three years, with program improvements.

Stan Moy  
Stan Moy Architects

Mr. Moy recommended that the Ordinance be extended and strengthened, with better enforcement. Upon passage of the Ordinance in 1984, the formerly shut windows of opportunity opened slightly.

The requirements for larger firms to subcontract or joint venture in the area of professional services with MBEs and WBEs has helped. While the industry is crowded with qualified minority firms, success rates are low, but this is better than nothing.

Mr. Moy cited the benefits to large firms by subcontracting

with small M/WBEs: large firms thus avoid destructive staffing changes between large projects; with small subcontractors, the cost of marketing is reduced.

Among the problems of implementing this Ordinance, he cited a need to improve interdepartmental responses, hold all city agencies accountable, and apply and enforce standard definitions of subcontracting.

Dorothy Erickson  
Executive Vice-President  
Nationwide Construction Company

Ms. Erickson's firm is a reinforcing steel placing company based in San Francisco and in Downey, California; she is the immediate past president of Women Construction Owners and Executives of USA.

She stated that the objectives of the Ordinance have not been met. One reason was too few women contractors willing and able to work in San Francisco. Also, the certification process for women, particularly Caucasian women, is expensive and biased.

Her company was one of the first WBEs to be certified; she said it was a long, drawn-out process. She added her associates who work in the Bay Area have stopped applying for certification or refused to go through the humiliating, expensive process.

Ms. Erickson stated that WBEs are disadvantaged, and 25 years behind MBEs in terms of industry representation; she called for special programs wherever this condition exists.

She noted that San Francisco is more expensive to do business in, citing higher salaries, rents, and taxes. Thus, incentives

and preferences must be provided for small, M/WBES to operate here at both contracting and subcontracting levels. However, preferences should be given only to firms which actually operate offices in San Francisco and contribute financially to this community.

Rick Ramirez  
President  
West Bay Contractors

Mr. Ramirez, a San Francisco contractor for 15 years, said both the minority and women's communities needed this program. He criticized other programs in the state that mandated only "good faith efforts" because they could be evaded easily. With such stratagems, large contractors can submit a low bid with minimal or no minority participation. Mr. Ramirez named the AGC (Associated General Contractors) as a powerful lobbying force which makes state agencies work with them, but at the expense of the minority community.

He said that if this program is taken away, it would be a big blow to the minority community.

Selina Bendix  
Founder, President, majority stockholder  
Bendix Environmental Research, Inc.

Pointing out that her very small local firm is not associated with the Bendix Corporation, Ms. Bendix thanked the HRC for the opportunities and assistance it has provided her over the years, and acknowledged the value of the Purchasing Department's Bids and Opportunities.



The M/W/LBE Program has been of great value, allowing her to show that her company can perform large jobs effectively as a prime contractor. Until the Program, her company had no major City jobs, and even now some departments assume that she cannot perform a complete Environmental Impact Report, which is a specialty of her firm.

The growth in her company's work has come from City and similar contracts, increasing her company's income, tax payments, and number of new staff. She also cited her firm's internship program, more than half of whom are women.

She criticized City staff who still favor firms from the "old boys network."

Jose Villalobos  
President  
Villalobos & Associates

Mr. Villalobos said his consulting engineering firm has worked with the City six to seven years on various projects. He endorsed the continuation of the program in the strongest terms, stating it should become a permanent policy.

It has allowed his firm to work with and gain the respect of majority firms, which would not have been possible otherwise. As a result, they have gone on to work with those firms on projects without a specific MBE requirement.

He suggested restructuring the program so that whenever minority participation falls below a specific level, such as 30 percent, it could be reinstated. He also said that there are occasions requiring specialized expertise, where the program

could be flexible. He also suggested that when an MBE is the prime contractor, they should have flexibility and relaxation in rules requiring minority, women and local business participation.

Virgilio Talao  
Partner  
Ocom, Potola & Talao Construction Material

Mr. Talao said his San Francisco-based firm has been in business for eight years at three sites in the City, with about 15 employees.

He said that Chapter 12-D's benefits are not yet a reality: blatant racism still exists; a wide gap in the contracting dollars awarded majority and minority firms exists because of illegal fronts and other schemes.

Mr. Talao thus recommended extending the Ordinance lest the small progress it has made be wiped out and wasted. However, he said the program must receive support; he specifically stated that it should verify the actual business dollars that went to the minority community.

He also recommended: using local business centers to help in outreach; establishing a task force to oversee City efforts; creating a quota in each department and a reporting system; enforcing stiffer penalties to businesses that do not adhere to the Ordinance; and closing loopholes and tactics to evade the "good faith effort clause."

Dr. Julianne Malveaux  
Political Action Chair  
National Association for the Advancement of Colored People, and  
President  
San Francisco Business and Professional Women

Dr. Malveaux, speaking for the two organizations, described their passionate commitment to continuation of this program: it opens doors to entrepreneurship and is an important form of affirmative action.

She cited 1985 data comparing Black vs Caucasian family wealth: \$3,200 vs. over \$39,000; part of the reason was differences in occupation, employment, and levels of entrepreneurial ownership. Hispanic family wealth was \$4,100.

She said that black women own fewer than one percent of all businesses nationally, with an average gross of under \$20,000 - showing the need for programs such as this one and for technical assistance.

Dr. Malveaux stated that in San Francisco no Black person owns a business that has more than 100 employees. However, despite these statistics, improvement has come largely through efforts such as MBE/WBE.

She criticized glaring loopholes in the Ordinance, stated that HRC must receive more enforcement staff, and possibly form skills centers.

By the year 2000, Dr. Malveaux said, the country will be one-third black and brown, and the City will be majority nonwhite. The choice when considering this Ordinance is whether we want to continue petty apartheid in the entrepreneurial class, or whether we truly want to open up competition by extending this

legislation.

Harry Overstreet  
President-elect  
National Association of Minority Architects

Mr. Overstreet has been a practicing architect in San Francisco for over 20 years, and spoke for continuing and strengthening the Ordinance. He mentioned the small number of black and Hispanic architectural firms in San Francisco, and compared it to South Africa.

He typified minority involvement in City projects with the Airport renovation costing \$100 million. The Ordinance required the hiring of a minority architect, and his firm was one of those hired. However, blacks received the smallest percentage of any of the contracts - this is common, and a reason why black architects need the support of the Ordinance.

Clarence Van Hook  
Owner  
Van Hook Electric Company

Mr. Van Hook said that his Richmond, California, firm has been in business for 15 years. He has benefitted from ordinances such as San Francisco's; while he still struggles, he doubted that he would be in business without them. He encouraged the Commission to continue the Ordinance.

He was once a member of the Associated General Contractors, one of the strongest adversaries to the Program. He thought that since his customers were general contractors, it would be smart to join and associate with them. He was a member for six years,



trying to get them to work together with the National Minority Contractor's Association, but he said the AGC has chosen to fight the goals rather than to help or evade them.

Despite his being from Richmond, Mr. Van Hook endorsed the preference for local contractors; he is willing to compete, why shouldn't majority contractors also be willing?

Grant Mickins  
Former Director  
San Francisco Human Rights Commission

Mr. Mickins summarized his last four years as the Commission's director: the times were very difficult because they were forging new ground, and they were dealing with City departments and contractors who had never been asked to make that kind of commitment. Despite that, and limited resources, he said that there has been progress, and a need to extend the Ordinance.

He said that the day when this Ordinance becomes unnecessary is not on the horizon. We need the Ordinance, the preferences, the goals, and concerted efforts. Mr. Mickins also expressed hope for cooperation from the AGC.

Mohammed Al Kaleem  
Publisher  
New Bayview Newspaper, and  
Owner  
Tutankhamen Graphics, and  
President  
Bayview Merchants Association

Mr. Al Kaleem has been in business since 1972. He stated that the departments, such as School Board and MUNI, must be pursued to give contracts.

He felt that the HRC emphasis was on construction contracts, at the expense of photography, graphic design, production and printing. He expressed concern that other minorities were now getting contracts, bypassing Black owned firms. His business has suffered as a result. He suggested HRC outreach into Black communities, such as the Bayview--Hunter's Point.

Eugene Lew  
Principal  
Eugene Lew & Associates

Mr. Lew spoke on behalf of his architecture and interior design firm's experience with the Ordinance. Saying that he didn't feel qualified to say whether the Ordinance should be extended, he shared his experiences.

He found that he would be hired, but not receive any work. Two years ago, he was a subcontractor on a Redevelopment Agency project. However, his participation amounted to under \$5,000 - whereas between \$500,000 to \$1,000,000 in architectural space paying services were paid, and the minority participation was to have been 25%. Despite many conversations with the developer and the prime contractor, he doesn't know what other MBEs may be receiving work, if any, on this project.

Thus, if the program is extended, he hoped that this problem could be corrected by HRC.

Eleanor Sue Coates  
San Francisco small business owner

Ms. Coates owns three small businesses in San Francisco (two

certified WBEs). Her University of San Francisco Master's thesis was on Municipal Procurement Practices. She created and publishes Bay Area Bids and Awards.

She stated that because of the ten percent preference, many companies cannot compete for business in San Francisco; some of her customers told her that due to the Ordinance, they concentrate on the private sector.

While she has personally experienced the difficulties of WBEs, she felt Public Law 95-507 was more fair, and has worked well without relying upon percentage bidding benefits, although it is expensive.

Ms. Coates felt that the City's program is not better, but is more expensive. She recommended that the percentage preference be discontinued, calling it reverse discrimination and expensive.

She said that goals must be reinforced, and outreach programs of training and counseling be applied throughout all departments of the City government.

She said other local cities have more active outreach, e.g., San Francisco sponsors no business opportunities seminars.

Speaking as a WBE owner, she said she wanted an equal opportunity, not a handout or unfair advantage.

Cheryl Perry-League  
Port of Oakland

Ms Perry-League extended greetings from the Oakland Port Commission and Executive Director Walter Abernathy. She first

stated support for extending the current Ordinance.

She next addressed the challenges to the San Francisco bidding process provisions, citing MGM Construction vs Alameda County, in which the court agreed that MGM had in essence performed the required good faith efforts. She said that Assembly Bill 1464 sponsored by Assemblyman Elihu Harris, had the participation of the agency, the Minority Contractors Association, contract compliance officers, and the Associated General Contractors. Due in part to AGC's involvement, she said that AGC had not challenged it.

Ms. Perry-League stated that the Port of Oakland focuses on good faith efforts. She cited a form the Port uses to establish whether the low bidder achieved a good faith effort. She mentioned their Equity Participation Program, Minority Vendor Program, Public Works Construction Program, and the fact that their tenants are included under their Affirmative Action Program.

She recommended that the City compare the Charter relationship to the bid; their program has not been challenged because their program is based upon a goal, which is based on a good faith effort which must be documented and statistically analyzed.

The advantages of this approach, Ms. Perry-League said, were that it prevents discrimination complaints, promotes the Commission as an entity that the business community must deal with, and protects you.

Commissioner Fernandez asked several questions. It was asked and verified that the policy applies to the Port, and not the City, of Oakland. Ms. Perry-League also stated that there are



separate policies for professional services and vendor services, and two programs applying to construction. There are no bid preferences within the policy.

Ms. Perry-League opined that San Francisco was challenged because the myth is that somehow the bid process is altered. Instead, bids are sealed, and not allowed after the deadline: the low bidder is the lowest bidder based on price. She mentioned that a recent \$4,000,000 contract award will allocate 26% to minority firms.

Maurice Regensburger, CPA  
Member, Board of Directors  
Associated General Contractors

Mr. Regensburger identified himself as a retired partner of Peat, Marwick, Main & Company, a member of the California Uniform Construction Cost Accounting Commission; he has 45 years of experience in public accounting, and 35 years specializing in construction companies.

He opposed continuing the Affirmative Action Program. It will significantly add to the \$170,000,000 budget deficit: the ten percent bid preferences will increase costs by as much as 11.1%.

He said that the authors of the Program do not understand the construction industry. Section 5-J2 states that it is normal for at least 80% of the work on general building contracts to be contracted out; in his 35 years, he has never seen 80% subcontracts.

Mr. Regenburger noted that HRC 4 and 6, Item 16, requires joint ventures to submit copies of the last three years tax

returns, confusing it with partnerships.

HRC Form VII requiring employee names is unnecessary and too expensive for HRC to review. He said it encourages unscrupulous companies to create shams which HRC auditors will not be likely to uncover.

He said that San Francisco has historically been open to minority contractors, yet now they receive permanent preference.

Replying to Mr. Gerard's testimony (see Departmental Responses, 2.A. below), he stated that joint ventures are declining in number because the program makes them too onerous, in favor of subcontracting.

Gwen Kaplan  
Owner/operator  
Ace Mailing

Ms. Kaplan further identified herself as the President, Union Square Chapter, Business and Professional Women; Chairperson, Board of Trustees, Arriba Juntos; Member, Regional Board, B'nai Brith Anti-Defamation League; and Member, Board of the Professional Women's Network.

She expressed the need of small business owners and community activists for HRC support, and urged extending the Ordinance. She said that the majority of City departments fail to meet their purchasing goals. The program needs to be extended, strengthened and enforced.

John Casey  
President  
Casey & Company, and  
Member, Board of Directors  
Associated General Contractors

Mr. Casey's firm specializes in contract bonding.

Mr. Casey stated that the Ordinance attempts to impose a social purpose upon the system of competitive bidding which had been perfected over 80 to 100 years. However, the administrators implementing this Ordinance demonstrate a complete lack of understanding of competitive bidding, including bonding.

Bonding requirements represent the most significant element of this process; Mr. Casey described it as absolutely the most foolproof guarantee that the public's money is spent effectively. It protects the government and must be a prerequisite to awarding the contract.

Bonding is difficult and complex to achieve, and one's race or sex has no relevance. Until HRC staff understand this, the Ordinance should not be extended.

The Ordinance should not be extended: it is costly and for the construction industry, it will never accomplish the intended purpose, and cost San Francisco millions of dollars annually. All of the efforts of HRC staff thus have been, and would continue to be, a waste of time.

Carol Griffith  
Equal Opportunity Officer, Service Treasurer, and Project Manager  
Hodson Construction, Inc.

Ms. Griffith stated that she also spoke on behalf of AGC. She noted that the intent of this Ordinance is honorable, but

resulted in discrimination against Hodson Construction. Since the five percent preferences, Hodson has become unable to compete for Airport projects, whereas it had actively bid on and performed work there previously. Instead, she recommended the programs in place at the Port of Oakland and City of San Jose as being more fair. If her firm or a subcontractor failed to meet affirmative action goals, disqualification would be fair, but they are disqualified before they start because the competitive atmosphere has been damaged. Therefore, Ms. Griffith requested the Ordinance be ended.

Gerald W. Johnson  
Managing Editor  
Small Business Exchange

Through publishing his bid opportunities newsletter statewide, Mr. Johnson stated that corporations generally accept the need for goals and timetables for MBEs and WBEs, as HRC's Ordinance does. While its goal has not been reached, it has made a long step in making the marketplace competitive.

Mr. Johnson defined the question as market share. From this perspective, minorities and women have been out of the marketplace. Thus, the task is not civil rights, but rather marketing to establish their presence in the marketplace.

He cited a study of school district contracting in which 25 contracts were awarded to only four firms: the study found collusion and discrimination. However, AGC challenged the 25% goals set to rectify that problem, and prevailed.

Mr. Johnson said that despite what others have testified to,



50 to 60% of all major contractors get their business not by bidding, but by negotiating. He cited the State Contract Register as one proof, and said such factors inhibit the progress and development of minorities and women in the marketplace. In addition, he noted that set aside contracts are common for large Pentagon contractors.

Concerning bonding, he stated that in the 1930s and 40s, bonding became required because of shoddy public construction work, and minorities were not involved in that work. Now, he said, minorities are accused of doing shoddy work and thus are unable to get a bond.

Michael Willis  
Minority Resources Committee  
American Institute of Architects

Mr. Willis stated that his committee members faced problems in obtaining L/W/MBE contracts. They included the requirement for racial diversity, which is often unrealistic for minority-owned firms: there are presently too few minority professionals available to employ, and the numbers of minority students is declining.

Also, the 51% requirement to establish minority ownership eliminates two-partner minority firms with one minority partner; he asked a case-by-case evaluation when minorities have a significant role in operating that business.

He suggested that HRC could assist minority professionals when a firm is required to hire or subcontract minorities to execute that contract.

Mr. Willis stated that his committee believes that the Ordinance has effectively provided contracts for minority architectural firms, including winning more prime contracts. Thus, he voiced their hope that the Ordinance be continued and be used as a national model.

Thomas Thompson  
San Francisco District Manager  
Associated General Contractors of California

Mr. Thompson described the AGC as the largest regional construction industry trade association in America, with over 1100 contractor members and 900 affiliate members; they perform and support over 70% of all in-place residential construction in the state. They employ half a million Californians. In San Francisco, they perform over 80% of non-residential construction, and 80% of all residential construction of 40 or more units, employing 20,000 on City job sites.

AGC opposes the extension because the Ordinance (1) wastes infrastructure dollars, which cheats City taxpayers; (2) discriminates; (3) serves no useful purpose; (4) violates the City Charter; (5) violates the Equal Protection Clause of the Constitution; (6) is poorly drafted and an administrative nightmare; and (7) is very bad public policy. It also makes a mockery of the competitive bidding process.

Mr. Thompson discussed the AGC court suit and its recent request for an injunction triggered by these hearings. He said that HRC is attempting to end discrimination by imposing discrimination, which violates AGC's constitutional rights. He

said that the Ordinance costs the City \$150,000 per million dollars of contracting, plus administrative costs; the total waste cost was thus \$45 million on \$300 million in contracts annually.

Mr. Thompson read into the record three letters. The first letter was from the law firm Graham & James, on behalf of client Homer J. Olson, Inc., a non-minority owned construction company; it urged non-extension of the Ordinance.

The second letter was from C.W. Roen Construction Company, strongly opposing continuance of the Ordinance. It addressed the use of sham and fictitious businesses to gain the preference, and cited the \$2,000,000 Sherry-Eleanor Pump Station project in 1985. Although it was the low bidder, the Ordinance caused the third bidder to receive the award.

This was a San Jose firm fronted in San Francisco and registered as a disadvantaged MBE. Besides costing taxpayers \$50,000, Rowan's own work to produce a low bid was wasted. Thus, the firm has no interest whatsoever in doing further business with San Francisco until the Ordinance is terminated.

The final letter was from the Pacific Legal Foundation Council for the AGC, objecting to the Ordinance, and cited the AGC lawsuit.

Mara Rosales, City Attorney's Office, asked several questions. Inasmuch as the AGC never challenged the City on the fact that MBEs won less than one percent of construction dollars in 1981-82, despite making up over 30% of public construction contractors, what suggestions did AGC have to rectify that virtual

exclusion of MBEs from the City's contracting system?

Mr. Thompson replied that during that period, minority subcontractors received 16 or 17 percent. Now, in the guise of joint ventures, the same 16 or 17 percent is still probably being achieved in current projects.

Ms. Rosales stated that the program's primary concern is not subcontracting, but the fact that MBEs were excluded from the award of prime contracts. Mr. Thompson categorically denied that discrimination occurred, because contracts were awarded to lowest responsible bidders; he stated that the AGC suggestions of 1983 and 1984 were summarily ignored.

Commissioner Fernandez asked about the Port of Oakland's good faith effort emphasis, rather than bid preference, attracts AGC. Mr. Thompson replied that the Port adopted State guidelines which clearly defined good faith efforts.

Eva Patterson, Esq.  
Coalition for Economic Equity, and  
San Francisco Lawyers Committee for Urban Affairs

Ms. Patterson stated that her organizations' interests and those of the AGC represented two different poles in the battle for the heart, soul, and pocketbook of San Francisco.

Whereas AGC representatives are very prosperous, women and people of color have that goal. She asked that AGC give them a chance at their rightful share of contracting money.

Ms. Patterson said that the Ordinance does not discriminate, it rectifies discrimination, the virtual exclusion of women and minorities from San Francisco society, and that the U.S. Supreme



Court has approved the approach.

She traced the intellectual development of anti-discrimination rulings from the Supreme Court: first, in Brown v Board of Education, equal educational rights were acknowledged, then the Court acknowledged equal employment opportunities. Now, the issue is ownership, not just subcontracting.

Ms. Patterson contradicted AGC's interpretation of the current litigation. Instead of being settled Constitutional law, Ms. Patterson stated that the law is in flux, citing City of Richmond v Croson, and the likelihood that the Supreme Court will decide the issue within six months. She stated that the guiding legal principal is having a compelling interest in remedying discrimination.

Also in flux, Ms. Patterson said, is the issue whether a City may, like the Federal government, institute race and gender conscious Affirmative Action contracting program. The program will self-destruct when equality has been achieved.

The HRC program is flexible: its provisions may be waived if there are no qualified MBEs or WBEs. The last requirement she cited is that the Ordinance must have a minimal impact upon non-minorities. Citing Mr. Thompson's remarks that AGC contractors receive 70 to 80% of contracts, she noted that they aren't 70 to 80% of the population.

Ms. Patterson contradicted Mr. Casey's remarks that the present system has been perfected: she said that it was perfected to perpetuate the interests of white men, and gave them 97% of the contracting dollars.

Ms. Patterson ended by noting that because HRC doesn't count certain contracts in its analysis, MBEs and WBEs actually receive lower percentages of City contracting than the statistics appear to record.

In conclusion, Ms. Patterson asked that the Ordinance be extended.

Commissioner Fernandez asked whether Ms. Patterson was referring to the definition of "eligible contract dollars." Ms. Patterson responded that she understood that Federal and State contracts have been exempted from the count. If they were included, the apparent total of MBE contracting would be reduced from 30-35% to only six percent.

Ricardo Ramirez  
President  
West Bay Contractors

Mr. Ramirez charged that during the 50 or more years that the AGC has been around, nothing was done to allow access for the minority community to enter into that business field. The HRC program, however, now provides that access.

He contradicted Mr. Thompson's figure of 16% (minority subcontracting). Saying that he had been in business in San Francisco for 15 years, he didn't remember receiving any jobs of any magnitude until the HRC program.

Mr. Ramirez described a 1969 incident in which a black trucker obstructed a BART construction project as a protest for having no work. He stated that historically, suppression has eventually led to programs that give people the opportunity

denied them.

He also charged that many AGC contractors have set up local addresses and gone into joint ventures.

He stated his belief that current statistical procedures created inaccurate counts of minority participation, a factor in minorities not getting their fair share of contracts. He also recommended better monitoring of firms that move into San Francisco. Mr. Ramirez concluded by asking AGC to work with the minority community.

Phyllis Wesson  
Principal  
A-Plus Roofing

Ms. Wesson identified her commercial roofing company as a local minority firm certified with the HRC and Public Utilities Commission, and a competitor for City Public Works Projects. She characterized her firm as a pioneer, and often the only MBE or LBE bidding on a job.

Ms. Wesson characterized the issue as how to improve the Ordinance to better meet the established goals.

Her first recommendation was to make it easier for women to become certified, while acknowledging that historically and currently women-owned construction firms have been regarded as fronts, and that the "good old boy" network is alive and prevalent.

Countering opponents' views that the Ordinance represents reverse discrimination against them, she stated her belief that their true concern is competition.

Without the Ordinance, more competitive markets are not possible. Ms. Wesson strongly supported extension, stating that it will require far longer than three more years.

Ed Kallgren, Esq.  
President  
Bar Association of San Francisco

Mr. Kallgren stated that upon the recommendation of the Committee on Equality, the Board unanimously voted to recommend continuation of the Ordinance for another three years.

The first reason, he said, was simple justice, to rectify past patterns of discrimination, and inabilities of minorities and women to compete successfully. While a long-term system favoring one group over another is indefensible, the Ordinance aims to achieve definable, reasonable goals.

Second, he characterized the Ordinance as good business: the entire city benefits if it builds strong minority and woman oriented small businesses. There are more avenues for people to have access to business and the economy, and share in the benefits of being a part of a great metropolis.

Assuming that the Ordinance is constitutional, which the courts are deciding, he stated that it should be extended.

Mr. Kallgren concluded his remarks by offering the assistance of his organization's lawyers and legal assistants.



Carol Kingsley, Esq.  
Member, Board of Directors  
San Francisco Women Lawyers Alliance

Ms. Kingsley stated that her organization wholeheartedly supported extension of Ordinance 139-84. Her organization is an affiliate of California Women Lawyers, and has over 200 members in the legal profession in the Bay Area, including WBEs and MBEs.

By its own terms, the Ordinance has not met its mandate and must be extended. She discussed several issues to address subsequently: why has WBE participation been so low, relative to the more substantial increase in MBE contracting? How can more WBEs be certified, and how can they be assisted to obtain City contracts? How can bonding and insurance obstacles be overcome?

The Alliance offered assistance in seeking solutions and acting to overcome problems of the Ordinance's attainment.

Don Loorz  
Stolte, Inc.

Stolte, Inc., is a general contractor located in Oakland. Mr. Loorz spoke on his own and the company's behalf to oppose extending the Ordinance.

He supports the concept of equal opportunity, and takes pleasure when a contract is won to award subcontracts to a MBE or WBE. In deciding the firms to receive subcontracts, he stated that this process must be rational, i.e. their bids must be competitive, and they must be capable of financing and performing the work they propose to do.

While supporting affirmative action, good faith efforts, reasonable requirements and goals, he opposed using



administrative requirements to turn goals into quotas. On a given job, a 25% goal might be possible, but another job with similar conditions may permit only a seven or eight percent participation to minorities.

He asked that requirements of demonstrating good faith not be inordinately complex and expensive to carry out.

He opposed set-asides as blatant discrimination and denial of opportunity for the non-minority population. He said that it also discriminates against the larger and more qualified MBEs and WBEs in favor of smaller MBEs.

He opposed percentage preferences for local and MBE/WBE contractors.

He did not agree that the Ordinance should define how a MBE/WBE joint venture partner should participate in the venture, other than to share in its profit or loss depending on the extent of participation.

Mr. Looz stated that before the Ordinance, Stolte competed for San Francisco work for 30 years. Because of the Ordinance, Stolte has decided not to compete for City work.

Mary Faughender  
Fisk, Firenze & McLean

Ms. Faughender read a letter into the record from her firm, a general contractor. The letter opposed the Ordinance, as discriminatory against individuals and companies such as itself, because it discourages companies from seeking San Francisco contracts, and even if they are the low bidder, face it being

awarded to a MBE/WBE/LBE.

James W. Lowrie  
President  
Lowrie Paving Company

Mr. Lowrie's company has been in business in San Francisco since 1922. He supported the concept of MBE and WBE and that it is a good goal to strive for.

However, he said that the Ordinance has brought competition to a virtual standstill. The numbers of bidders is now a half or a third or less than before. It is expensive in that it cuts down competition.

He criticized that there is no way to evaluate its cost, because there is no baseline from which to calculate costs. Nor is there a way to evaluate its effectiveness. He contradicted speakers who said that "one percent of minority contractors are women owned businesses...against 35 or 40 or 50% of the population.... That doesn't make sense, it isn't a true comparison."

In the street work business, only two MBEs exist and are getting all the work. In the past four or or five years, no new MBE contractor has entered the field. His company calls and begs subcontractors to give them subcontractor bids when they assemble bids. There are no women in street construction or general engineering.

Thus, he concluded that the Ordinance has accomplished nothing in four years. On the other hand, it has forced reputable companies such as his to lose work to fronts.

He concluded by saying that the concept of the Ordinance is great, but must be changed so it makes sense, is cost-effective, and gets the job done.

Dick Hamilton  
President  
Monterey Mechanical Company

Mr. Hamilton stated that he resented the implication of "good old boy" - that he has benefitted from past discrimination.

He stated that his firm supports many businesses in San Francisco. Consequently, why should he be discriminated against by LBE provisions; Oakland doesn't do this to him.

He stated that MBE/WBE preference is also discriminatory. Because the average net profit on revenues in the construction is one to two percent, the five to ten percent preference drives non-preferred contractors out. He cited the PUC bidding on the Cherry-Eleanor Pump Station. Only one bid, for \$5,092,000, was received; the engineers' estimate was \$2,500,000; normally, six to twelve bids would have been expected.

He also said that despite being the low bidder on the Southeast Sewage Plant, other higher bidders who had local preference received the job. As a result, his firm no longer bids on work if they think there will be bidders with preferred status.

Pete Lapid  
Pete Lapid and Associates, and  
Filipino Society of American Architects and Engineers

Mr. Lapid spoke to support extending and strengthening the Ordinance.

His firm, electrical consulting and engineering services, was established in 1983. Due to the Ordinance, his firm has been able to participate in projects which their size would otherwise have prevented, and given them a chance to demonstrate their ability to do larger and complex work. In turn, the prosperity of small firms contributes to the City's economy.

He recommended greater efforts by and accountability of department heads for the enforcement of the Ordinance; HRC authority for regulating and monitoring must be permitted. Also, the City's contracting opportunities should be distributed according to its population make-up because Asians, and Filipinos in particular, are a large and fast-growing group.

Greg Rojas  
AIA and Associates, and  
Filipino American Republican Council of California

If not for the Ordinance, Mr. Rojas said, it is unlikely that his firm would exist. Because of the Program, he is now the landscape consultant to the Marriott Hotel at Yerba Buena, but perceives skepticism over his ability to do the job. His firm also does "the dirty work," such as reconstruction work on the downtown high school.

Mr. Rojas commended HRC for doing its job despite limited resources and limited power, noting that many departments failed



to meet their goals.

He noted that there was great confusion as to HRC requirements in submitting bids, including differing interpretations by the City Attorney and HRC.

He also stated that when bidding on a project as a prime, his consultants had to be a cross-section. However, the requirement for equal participation cannot be addressed because he is to his knowledge the only Filipino practicing in the City in architecture.

Richard Crociani  
President  
Crociani Construction Company

Mr. Crociani said that his company is a small San Francisco general building contractor, and that he is a member of the AGC of California.

He voiced his strong opinion that the M/W/LBE Program be discontinued, charging that the City has literally been giving away money, and characterizing it as foolish and unconstitutional.

His family has been in business in San Francisco for over 40 years, proven itself with hard, honest working principles, but these no longer seem to count because he is not a minority.

Because of the preference, he cannot afford to bid on City work with a five percent disadvantage. If a competitor is fully qualified and licensed by the State, then both they and he should have the same opportunities.

Mr. Crociani said that the Ordinance is unconstitutional and



must be ended.

Jonathan Mayes  
Charles Houston Bar Association

The Charles Houston Bar Association is comprised of black attorneys practicing in Northern California, and is an affiliate of the National Bar Association. Mr. Mayes said that his organization strongly recommends that the Ordinance continue.

Referring to the preceeding speaker's reiterated comments that the Ordinance was unconstitutional, he noted that the question is still unresolved. Furthermore, that speaker spoke of discrimination against himself as a white person; for thirty years, Mr. Mayes has felt this as a black person - seeking a job, admission to schools, going to meetings - knowing people were predisposed against him due to his race.

Accordingly, any inability of minorities to compete with white contractors before this Ordinance was not due to their character, it was not due to the quality of their work, but due to the color of their skin or their sex.

As the Ordinance has not yet its goals, his organization supports it as the right step to end discrimination.

John Raiser  
General Contractor

Mr. Raiser has been a Bay Area general contractor for 31 years, and served the AGC as a board member and chairman. Pointing out that he came to America as a penniless, Greek, 17 year old student speaking no English, he credited the opportunity

to grow and speak in public to the American tradition of fair play and equal opportunity.

He supports the goals and ideals of the Ordinance, but wants it reconsidered because the rules are totally unfair. He has not bid in San Francisco in five years because of the rules. He feels discriminated against, would like to be back in the game, and offered to help in the goals.

B. Written Public Testimony

Robert Sanchez  
President  
Hispanic Chamber of Commerce

Mr. Sanchez, on behalf of the Hispanic Chamber of Commerce, expressed unqualified support for extending the Ordinance, with some modifications, because the goals have not yet been met, due to the monopolistic hold that he said nonminority firms have held.

Naomi Gray  
President  
Naomi Gray Associates, Inc.

Commissioner Gray submitted a copy of Health Commission Resolution No. 088-87.

(Her statement was otherwise similar to her oral remarks)

Stephen W. Lee  
Vice President and Director  
United Asian Contractors Association

Mr. Lee wrote on behalf of his 80 members, general and specialty construction contractors in the Bay Area, to favor

extending the Ordinance for three years, with improvements.

He listed problems as: City Departments failing to accurately report "eligible contract dollars;" low rate of meeting the 30%-10% goals; bonding and insurance requirements; and the requirement that contractors be signatories to "a recognized apprenticeship and/or training program" discriminates against the small, minority contractors.

T. Peter Lam  
President  
Asian American Architects and Engineers

(similar to oral remarks)

Eddy T. Lau  
Chairman, Issues Committee  
Council of Asian American Business Associations

Mr. Lau said CAABA represents over 400 firms, and formally requested extension of the Ordinance because its past performance has been dismal, with ineffective enforcement. On the basis of CAABA experience, they believe the goals have not been accomplished.

CAABA had recommendations in three areas. To discourage fronts, "local businesses" should be required to pay payroll taxes; the ordinance should be applied to all professional service contracts, concessions, and leases; a technical committee be formed for each discipline to advise HRC staff on granting waivers.

On A/E contracts, MBE primes should be required to hire MBE subcontractors other than themselves, except for small contracts.

There should be a limit of \$500,000 per year of contracts to a given firm except in certain circumstances.

Current procedures for construction contracts require apprenticeship program participation, which exclude many minority contractors. Bonding requirements should be more liberally interpreted.

Selina Bendix  
President  
Bendix Environmental Research, Inc.

(same as oral)

Stan Moy  
Partner  
Finger and Moy

(same as oral)

Don A. Loorz  
Vice President  
Stolte Inc.

(same as oral)

Virgilio Talao  
Partner  
Ocampo, Potola & Talao Construction Material

(same as oral)

Dorothy Erickson  
Executive Vice-President  
Nationwide Construction Company

(same as oral)

David Chavez  
David Chavez & Associates  
Cultural Resources Consultants

Mr. Chavez supported extending the Ordinance; as a certified MBE, he has secured City contracts which he otherwise might not be able to obtain, as a smaller, lesser-known cultural resources consultant.

Lucinda A. Schlaffer  
ARQ Architects

Ms. Schlaffer stated that the Ordinance should not be continued in its present form because (1) the rules are misleading, vaguely administered, and make applying for certification expensive, and (2) the 51% ownership requirement is almost impossible to prove.

She stated that she was denied WBE status after over 100 hours of time, interviews, and trips to HRC, and compared her experience with accounts she has heard of other architectural firms fraudulently obtaining WBE status by expensive legal stratagems. She recommended federal, state, and University of California MBE/WBE programs.

If these problems cannot be solved, she recommended eliminating the program.

Eugene Lew  
Principal  
Eugene Lew & Associates

(same as oral)



Liz Robson  
President, Owner  
Stat Nursing Services

Ms. Robson described her problems with automobile insurance requirements in October 1987. Despite previous waivers, and having contracts with the State and the Veterans Administration to provide the identical service, in which her staff did not drive to provide the services, HRC repeatedly refused to waive the requirement. Obtaining the higher level of insurance would cost an additional \$10,000, for a \$5,000 contract.

While supporting extension of the Ordinance, Ms. Robson urged that requirements be realistic.

Pacific Legal Foundation  
Attorneys for Associated General Contractors of California, Inc.

(read into the record by Mr. Thompson)

Renato G. Martinez, CE-TE  
Transportation Engineering Consultant

Mr. Martinez endorsed the Program and supported extending it indefinitely. He credited it for work his firm was awarded.

Martin Del Campo, AIA  
President  
Del Campo & Maru

Mr. Del Campo stated that his MBE/LBE firm benefitted from the Ordinance, and that the City has benefitted as well. Despite not receiving any contracts since the City required that primes must meet the 30-10% goals for subcontractors, he nevertheless supported it.

Mr. Del Campo stated his belief that San Francisco's Ordinance was superior to other cities, county, state, and Federal ordinances, and that it should be extended.

J.P. Dariotes  
Assistant Controller  
Tamaras Supply, Inc.

Mr. Dariotes stated that it is unfair and more costly to give a 5% preference for being an MBE or WBE; instead, consideration should be given for LBEs, price, and reliability.

Jose L. Villalobos  
Villalobos & Associates, Consulting Engineers

(same as oral)

Eric Jue  
Senior Recruiter/Counselor  
Chinese for Affirmative Action

(same as oral)

Paul D. Banks  
President  
Banks Dental Supply

Mr. Banks stated that the Ordinance must be extended for at least five years. From his perspective as a Black-owned company certified in 1984, he said that the first two years appeared oriented towards "fairs" but not sales opportunities. Over the years, the selling has been slow, but without the Ordinance, the opportunities for MBEs would be nonexistent.

Carl W. Chen, Ph.D.  
President  
Systech Engineering, Inc.

Dr. Chen recommended continuing the program, despite not receiving any contracts from the City. He said it does not increase the cost of a contract, nor denies larger firms, but provides some opportunity for disadvantaged people. He did, however, suggest that renewals need not require a notary.

Alan W. Wuthnow  
President  
ALPHA Photo Products, Inc.

Mr. Wuthnow stated that the Ordinance is a disservice to all concerned, including minority employees of non-MBEs.

In the photographic industry, he said that only four regional companies can supply large-scale systems, and only one firm is in San Francisco. Consequently, dealers outside the city cannot compete: even when it is the low bidder, the 10% preference prevents his company from winning, and often the suppliers are not capable of delivering the needed service.

Finally, he stated that 24 of his 42 Oakland-based employees are minorities, and are penalized by the City's Ordinance.

Norma Nelson  
Purchasing & Contract Compliance Specialist  
City of Hayward

Ms. Nelson supported extending the Ordinance to ensure access of MBEs and WBEs in recognition of their contribution to the revenue base which makes government purchasing possible.

In correcting a virtual monopoly of decades, five years

cannot suffice.

Bruce A. Roen  
President  
C. W. Roen Construction Co.

(previously read into the record by Mr. Thompson)

Evelyn R. Phillips  
Administrator  
The Workshop

Ms. Phillips favors continuance of the Ordinance, although her company has not received any City contracts in five years.

One problem was stipulations and requirements that prevent a company from participating as either a prime or subcontractor.

She suggested that HRC also develop ways of encouraging WBEs to stay in business.

Carol Kingsley  
Member, Board of Directors and  
Co-Chair, Economic Equity Committee  
San Francisco Women Lawyers Alliance

(same as oral)

Kenneth G. McCormick  
Vice President  
Fisk, Firenze, McLean, Inc.

(read into the record by Ms. Faughender)

Richard Hamilton  
President  
Monterey Mechanical Co.

(same as oral)

Pete O. Lapid, P.E.  
President  
Pete O. Lapid & Associates

(same as oral)

Jim Paredes, P.E.  
Executive Vice President  
The Filipino American Society of Architects and Engineers

Mr. Paredes' organization claims 300 professionals, and supports the Ordinance and extending it for three years. He recommended that the City Attorney's opinions should be followed in questions of interpretation, that smaller firms would benefit from a more equitable distribution of work, and that HRC enforcement powers be increased.

Greg Roja, AIA  
President  
Greg Roja & Associates, Inc.

(same as oral)

Hernando G. Campued, P.E.  
State Chairman  
Filipino-American Republican Council of California

Mr. Campued wrote to support extending the ordinance for three years.



Richard P. Crociani  
Crociani Construction Company

(same as oral)

James W. Lowrie  
President  
Lowrie Paving Company, Inc.

(same as oral)

John A. Raiser  
The Raiser Organization

(same as oral)

Gwen Kaplan  
Owner/Operator  
Ace Mailing

(same as oral)

Honorable Milton Marks  
California Senate

Senator Marks, a member of the Business and Professions Committee and the Senate Select Committee on Small Business Enterprises, heartily endorsed the Ordinance's extension as proper social policy and in the best interest of San Francisco's economy.

James D. Jefferson  
President  
Black Chamber of Commerce

Mr. Jefferson, in a memorandum to Chamber members, stated that the Ordinance should be extended.

Frederick E. Jordan  
President  
F.E. Jordan Associates, Inc.

Mr. Jordan is a vice president of the Black Chamber of Commerce and a past president, National Association of Black Professional Engineers.

He criticized as "dismal" the use of selection boards in selecting prime minority professional firms for design and consultant projects. He cited a \$200,000 contract his firm received from the Public Utilities Commission: he accused the PUC President of requiring him to subcontract \$180,000. Bids on 20 projects, with the above exception, have been unsuccessful.

Mr. Jordan said that the Port is "particularly blatant" - while the Port of Oakland has awarded designing four major facilities, the Port of San Francisco won't shortlist his firm. He also named the Redevelopment Agency as "insensitive."

Mr. Jordan recommended extending the Ordinance, with 50% MBE goals.

Maurice L. Regensburger, CPA  
Associated General Contractors

(same as oral)

John J. Casey  
President  
Casey & Company

(same as oral)

Elinor Sue Coates, CPCM  
San Francisco Businesswoman

(same as oral)

Harry W. Brooks, Jr., MG, USA-Ret.  
Chairman & CEO  
Western Computer Group

MG Brooks wrote to support continuation of the Ordinance, with the addition of incentives or punitive measures.

His firm is a certified MBE and the largest Black company in the Bay Area. However, he has done very little business with the City, giving up two years ago after a series of frustrating attempts.

Michael Willis  
Minority Resources Committee, San Francisco Chapter  
American Institute of Architects

Mr. Willis said his committee members suffered from (1) unrealistic HRC requirements for racial diversity as there are too few minority professionals; and (2) the 51% ownership requirement is too high, as many firms are half-owned by minority partners, so they cannot obtain the benefits of the Ordinance.

He suggested a requirement that nonminority contractors be required to assign minority employees so that they can develop the needed expertise.

The following summarizes responses to the question "Should the Minority/Women/Local Business Enterprise program be continued?" on the form distributed by HRC, with summaries of any

written comments. (Appendix D) All respondents, except as noted, are in the San Francisco Bay Area.

Unsigned

Yes - it gives minority entrepreneurs a chance to establish businesses. Also, remove the "non-reference/experience" clause.

(name of company and owner unintelligible)

Yes - the program should be continued for ten years.

Cereske Electric Cable Co.

Yes - as a small WBE, the Ordinance has given an extra edge to compete against large corporations.

Howard H. and Anna W.B. Lee  
San Francisco

Yes - it has been a fair program to give MBEs a chance for a fair share of jobs and contracts; it has been successful.

Harold B. Brooks, Jr.  
Business Development, Inc.

Yes - the previous hearings established the need for MBE/-WBE/LBEs to share in city contracts.

J. Ray Jones  
Financial Director/Vice President  
California Regional Urban Development Corporation

Yes - without this program, the system would not be protected from the old boy network. With the program, all citizens may

participate in economic development.

Earl H. White  
President  
E. H. White & Co.

Yes - the program affords the possibility to create more jobs in the City for minorities and women; otherwise, outside firms would bring in their people and not hire locals.

UPL  
San Francisco

Yes - overall, a good program, but annual renewal should be followed up more closely.

Thomas Raines  
President  
Precision Key punch Service, Inc.

Yes - the program is necessary to nurture MBEs.

Statewide Private Patrol and Guard Services

Yes - because minorities face extraordinary hardships due to racism.

Alice Carey & Associates  
Architects

Yes - MBEs and WBEs need an opportunity to participate.

Fontaine, Quintanilla & Assoc.

Yes - Equal participation goals have not been met.



New West Business Forms

Yes - Program increases opportunities for small firms to compete with larger corporations.

Unsigned

Yes - as a small MBE, it is hard to compete with high rents and competition from large corporations; any assistance from the City is necessary to keep small businesses. Would like to see the program expand, and give help in submitting bids.

Alert Welding Supply Co.

Yes - because we must compete with vendors outside our county who pay less taxes and can quote lower prices. We support the City with our taxes and need the 5% discount to be competitive.

JCX Expendables

Yes.

Safety Systems Hawaii, Inc.

Yes - We need to help encourage minorities to aspire to something better.

Joe Pandid  
President  
Pandid Enterprises, Inc.

Yes - it gives help in competing against large businesses.

Jesse C. Peterson  
President  
JESBET Enterprises

Yes - most of our income comes from procurement, and we could fail without the program.

Rejwan Architects  
Architects and Planners

Yes - as a WBE, an important part of my work depends on associating with other architects on Federal and state jobs.

Walter Moy Consulting Group  
Information Resources Management

Yes - There is still progress to be made. We need to do a better job of marketing ourselves and our work must be of excellent quality in the eyes of the buyer.

Lisa Jackson  
Omni Office Environments

Yes - a wonderful opportunity for small businesses to work with large companies.

Anselmo Revelo  
District Attorney, Family Support

Yes - the program should have a chance to prove itself.

Unsigned

No - spending up to 15% extra per item purchased is too much. M/W/LBEs are taking unfair advantage without giving support or service.

Unsigned

Yes - it somehow improves the imbalance of bid awards between MBEs and big corporations.

Hersh Saluja, P.E.  
President  
E-Z Consulting Engineers, Inc.

Yes - it is good for the competition and for the community.  
It has done wonders with the quality of projects.

American Modular Space

Yes.

Indira Raja  
Camera Boutique

Yes - it has helped and given women good opportunity to do business in the City, I hope for its long continuance.

Financial West Foods, Inc.

Yes - it increases opportunities for small businesses to compete with larger corporations and government agencies.

WAGCO Services

Yes - the program helps small businesses get their foot into the business world.

Conley Services

Yes - small business wouldn't have a chance without the Ordinance.

Etta Allen  
President  
Allen Heating & Sheet Metal

Yes - minorities and women need as much assistance as possible to compete. As a M/WBE, the program has been valuable to my company.

OAO, Sacramento

Yes. It facilitates distribution of City procurement funds to disadvantaged businesses and prevents unfair practices. While OAO has not received a contract, it appreciates the advice and counseling. OAO is a large firm (\$85 million gross sales) in Northern California only 14 months, but recognizes the Program is important for small firms.

R.L. Bains  
Compu-clerical

Yes - Minorities and women still are not treated equally, but without the Program, the situation would be much worse.

K.J. Iwagaki  
Allied Engineering

Yes - The program allows MBEs and WBEs to prove their qualifications and capability, and seems to be the only way they can break into professional and construction ranks.

Lou Alexander Trucking

Yes - it is necessary to achieve balances and fairness.

Doyle, Williams, Adley & Co., CPAs

Yes - As a M/LBE, the firm has received City auditing contracts. Without the Program, we probably wouldn't have had the opportunity to bid.

We definitely support the HRC.

Manna Consultants, Inc.

Yes - the program gives due consideration to local talents, and small efficient competitive firms that represent the fabric of our diverse community.

GP-5, DPH, 1001 Potrero Avenue

Yes - this is a valuable service; without it, minorities and women would be left out of an important economic segment.

Philip James & Associates

Yes - WBEs are helped by the program to learn to operate successfully.

M. Elia  
Systems Implementation Services

Yes - the program needs to be expanded and made more public.



Harry Bharuchi, Ltd.

No - the cost of insurance does not justify the amount of business that can be generated from the City; the program is too costly for the City and businesses and should be eliminated altogether.

Cornely Company

Yes - Contractors in San Francisco pay dearly to be in business here through taxes, etc.; it is only reasonable to give some consideration to businesses loyal enough to stay. This company has been in San Francisco since 1918.

Roger Genereux  
King Bearing, Inc.

Yes - the continuance of this Program will encourage business to stay in S.F.; why should outside businesses grab the business? We have to support those that are here to serve.

Coast Geo-Constructors, Inc.

Yes - without the Program no new MBE/WBE/LBE can compete.

Ace Legal Assistance

Yes - without the Program companies like mine would be unable to be in business.

TRS Consultants, Inc.

Yes - The MBE/WBE/LBE program should be continued to foster

and encourage the types of businesses to contribute to a better community.

Dominion Corp.

Yes - without this program, minority and women would never get any work in San Francisco.

Pacific Coast Retreaders, Inc.

Yes - the program is essential for survival; MBE/WBE/LBEs are the foundation of the City.

Alonzo Printing Co., Inc.

Yes - the program makes City officials aware of the capabilities of MBE/WBE/LBEs. If we live here we need to work here.

Frankie Gillette  
NANBPWC, Inc.

Yes - Minorities are still not being considered for all jobs in all departments. The legislation should be considered with sanctions for noncompliance.

A WBE

Yes - The program helps people get their businesses started.

"I want to see the program help others go into business as it helped me... (it) benefits the community as well - and even saves public funds because leaner, more efficient small businesses cost

less than large firms with enormous overhead."

Pacific Bolt Co, Inc.

Yes.

Fu-Lien Chang  
STRUCTUS

Yes - the program benefits all business.

Marsha Givens  
A.B.C. Cigar Co.

Yes. ABC Cigar operates a news/gift concession and candy flower shop at the Airport. It is a local, WBE since the 1930s.

Under the present Principal Concessionaire bidding process, ABC Cigar may lose its leases because they, as a prime contractor, are too small to have subcontractors if that is required.

ABC Cigar is too small to bid as a prime contractor because it cannot afford bonding and remodelling costs, but too large to be considered a small business contractor.

ABC Cigar recommended that there be space set aside for WBEs and MBEs as independent operators. Also, airport rents and sales are higher and the \$2 million ceiling was chosen years ago and thus fails to account for inflation; thus, the ceiling should be \$5 million.

Brian T. Chun-Hoon

Yes - The MBE/WBE/LBE Program will have to carve out a

permanent niche before it can be abandoned. It can't rectify decades of past inequities in several years.

Carol F. Reyes  
Fridie-Reyes Co.

Yes. Ms. Reyes enclosed a letter she wrote to the Marin County Board of Supervisors describing the difficulties of doing business there without such a program.

Peak & Associates, Inc., Sacramento

Yes - through the Program and similar ones elsewhere, they have received opportunities to bid because they are a WBE.

Unsigned

Yes - the program helps those who cannot compete with established businesses, helps offset years of disadvantages, and helps businesses to recognize minorities are good business people.

Kal Krishnan

Yes - "Great Program!!!!"

Lee Patmore  
President  
Dove Computing, Inc.

Yes - While Bids and Opportunities hasn't carried computer consulting contracts, the mailings are helpful and encouraging. It is a good program to create an atmosphere of access to the

marketplace.

Michael Pearson  
Department of Social Services

No - the program is cumbersome and time consuming for all city departments, wastes millions of dollars; award contracts to the lowest bidder regardless of color.

Unsigned

No - the program is discriminatory!

Unsigned

Yes - to reach parity; racism keeps whites from contracting with Black businesses.

Christine E. Davis  
President  
Columbia Communications International, Inc.

Yes - Participation allowed her MBE company to bid competitively and more widely on City goods.

Bing W. Jew  
Link International Co.

Yes - better competition with established businesses; competition without the Program would be impossible for MBE/WBE/LBEs.

Taylor & Associates

No - in view of the City's financial situation, this is an



unnecessary big expense. This WBE has received Bids & Opportunities for years but sees nothing of interest to this or any other WBE they know.

Unsigned

Yes - After 100 years of exclusion, the Program enables MBEs and WBEs to compete with "old-boy" firms. This is progressive, enlightened legislation.

Roger Chinn,  
Architect, AIA

Yes - program needs review to open contracting to all businesses and professions: design professions (architects, engineers) cannot submit proposals under HRC guidelines.

Dante Esta  
Ocampo-Esta Corp.  
Engineering Consultants

Yes - most of their contracts came as a result of being an MBE in San Francisco. This company's survival is highly dependent upon this program's existence.

Carol Russell  
Russell Personnel Services, Inc.

Yes - "As a woman who has struggled for nearly 25 years to produce a multi-million-dollar LOCAL business, I urge you to continue to give disadvantaged but equally qualified people "opportunity parity." Keep the Program!"

Elina K. Chung  
Merritt Uniform Center

Yes - to allow WBEs a chance to do business; while in business for ourselves, we are creating jobs for others.

Chacon Steel Co., Inc., Manteca

Yes - without the MBE program, Chacon could not compete in bidding on construction projects; some general contractors would not give them a chance without the program.

Mara Feeney & Associates

Yes - the Program forces large engineering firms and other prime contractors to seek out talented MBEs and WBEs which they are unlikely to do otherwise. This experience helps establish a track record.

Unsigned

Yes - The Ordinance's goals have not yet been completely achieved. HRC has much work to do, especially for MBEs and WBEs at the prime contracting level.

Hennie Wisniewski  
Transitions

Yes - to help small business gain access to City contracts; to help keep the City honest.

Phippen Design Group

Yes - If the program is dropped, M/W/LBEs won't be included.

Douglas Luna  
Luna Construction, Inc.

Yes - the program has helped small contractors such as Luna.

Alagia-Crosby Engineers

Yes - WBEs now receive 2.5% of contracts, but 25% of businesses are women-owned. Also, the recertification process needs to be simplified.

W. Tingley, Manager  
Golden West Envelope Co.

Yes - the cost of doing business in San Francisco is greater, so some preference should be given to businesses in the City.

Richard R. Ramirez  
Ramex Pumping Systems

Yes - if the program is discontinued, major corporations will continue to dominate and establish non-competitive pricing.

Lionel J. Recio  
Construction Management West

Yes - it will take a few more years before equality of economic opportunity is made more manifest. It will take time and patience.

His firm has not won any City contracts yet, but trusts that he will in the near future.

## 2. Departmental Response

### A. Public Hearing Departmental Testimony

Ed Walera  
San Francisco General Hospital

Mr. Walera strongly recommended on behalf of San Francisco General Hospital that the M/W/LBE Ordinance be extended. He said that they have worked diligently, and have had successes and setbacks.

He recommended that HRC have a special panel or subcommittee to develop new ideas and solve problems; its membership would include the City Attorney, Mayor, Purchaser, and other major department representatives.

He recommended that the Administrative Code be reviewed to resolve conflicts with the Ordinance, identify rules that stifle the program and cause excessive work and lost profits for small vendors.

Without setasides expressly for minority and women businesses, there is no way to guarantee success of the Ordinance.

Mr. Walera suggested accelerated payment schedules, which would help cash flows and overall fiscal health of small minority and women businesses with minimal capitalization. It would also be a better incentive to participate.

Guidelines for joint ventures should be formalized and distributed to all departments to further encourage them. Creative pilot projects should be allowed to develop ways of encouraging minority and women business.



Finally, he suggested that it might be helpful to categorize and target certain lines of expenditure, and set higher or lower goals according to the number of minority businesses.

Mr. Walera praised the minority and women vendors for the quality and responsiveness of their services; he thanked the Department of Public Health and various officials for supporting the program.

Sandra Crumpler  
Airport Commission  
San Francisco Airport

Ms. Crumpler urged HRC recommend to the Board of Supervisors that the Ordinance be extended. While there has been partial progress at the Airport, minority and women participation must be increased to meet the intent of the Ordinance. She noted that there are 11 minority and nine women-owned concessions, that 60% of professional services and construction contracts were awarded to MBEs, and one percent was awarded to WBEs.

She urged that HRC's internal monitoring procedures should be reviewed because they presently cause friction and confusion, while draining HRC resources. She also said that HRC should be considerate of departments' business needs, and not create unnecessary delays in awarding the contracts.

Ms. Crumpler voiced concern over interpretation of the Ordinance concerning the Airport's principal concession program. It proved to provide excellent opportunities for MBEs and WBEs, and many original sub-tenants successfully bid on other leases. However, because the City Attorney's interpretation prohibits



them from requiring subleasing, if a tenant decides to sublease, this is not reported.

She recommended that each department be allowed to develop a small business enterprise definition and program geared to that department's needs and resources. She also asked that setaside procedures be reviewed.

Audrey Oliver  
Administrator of Business and Employment  
Chief Administrative Officer

Speaking on behalf of the Chief Administrative Officer, Ms. Oliver said he supports the intended objectives of the Ordinance and recommended its extension. As a result of the legislation, city officials are more sensitive to issues and concerns of MBEs and WBEs attempting to contract with the City.

The program should be terminated only when the goals have been reached.

Cliff Gerard  
Port of San Francisco

Mr. Gerard stated that the staff of the Port recommended to its Commission that it recommend extension of the Ordinance for another three years.

The Port's MBE contracts increased from 13% in 1985-86 to over 35% at mid-year 1987-88; he said the staff attributed the increase to the program. WBE participation went from one percent to five percent.

Referring to other testimony that five percent preference

increases the cost of doing business, Mr. Gerard stated that in construction contracts at the Port, joint ventures between small and large businesses achieve economies that do not cause any significant increase in costs. He cited economies of scale, and sharing the expertise and bonding capabilities of the larger firm.

B. Written Departmental Testimony

Geri Brown  
Director, Contract Management and Compliance  
Department of Public Health

Ms. Brown stated that the Health Department is committed to the Ordinance, and urges the HRC and the Board of Supervisors to extend it and make changes.

She first asked that funds be appropriated for administrative and technical support, and to develop a comprehensive, city-wide reporting system; this latter could be readily done with minor changes to the reporting system.

She next recommended a self-certification process, under penalty of perjury and debarment; HRC would have a strong audit team to follow up. By simplifying the certification process, it encourages MBEs and WBEs to register.

Finally, Ms. Brown asked that set-asides be used for personal service and commodity purchase contracts. Specifically, she requested set-aside funds for minority women.

Commissioner Fernandez asked for amplification of Ms. Brown's views on handling debarment proceedings from self-certification and on funding; Ms. Brown replied that HRC should handle it, but

knew of no available appropriation.

Adelbert Campbell  
Minority Business Development Program  
San Francisco Purchasing Department

Mr. Campbell described the Purchasing Department's responsibility to procure most of the goods and services of the government; its policy to vigorously enforce Chapter 12D.

Prior to passage of the Ordinance, the Purchasing Department and HRC applied (with technical assistance from the CAO) for a Federal grant to do outreach and education to bring minority vendors into the City procurement system. This was approved in late 1984.

Then-Director of HRC, Grant Mickins, cooperated with Purchasing to implement the program, including compiling and distributing the first directory, and creating the initial system to implement the Ordinance when it became effective in August 1984. Purchasing has refined the system since then.

Mr. Campbell said that the Ordinance should be extended because the goals have not been met.

Sandra Crumpler  
Outreach Officer  
San Francisco Airport

Ms. Crumpler submitted a copy of her oral testimony and a memorandum of ideas and suggestions from Airport staff.

The memorandum commented on twelve areas. First, pointing out that the dollar amounts of construction and professional services to Blacks and women have dropped significantly and that

the same several contractors repeatedly receive awards, it suggests that smaller firms could be aided by a program similar to the Small Business Administration's Disadvantaged Business Enterprise program. Also, the Department wishes to be able to apply the category (minority or woman) when counting M/WBE participation.

Second, certification should be simplified for artists and free-lance professionals who act as individuals as opposed to businesses: the Airport's many minority and women artists who contract for services or artwork are unwilling to undergo the certification process. Also, businesses should be required to obtain certification within 15 days (construction) or 30 days (concessions) of bid opening or risk being denied preference.

Third, amend the Ordinance to include as Primes the M/WBE subconcessionaires of a principal concession program.

Fourth, Rules and Regulations should spell out departments' responsibilities for outreach, education, technical assistance, and making program decisions, and reduce the HRC's "in and out" role.

Fifth, the limit for applying construction subcontracting requirements should be raised from \$15,000 to \$50,000.

Sixth, whereas HRC has been applying the 30%/10% goals on a contract-by-contract basis, these goals should be applied on a department-wide basis.

Seventh, establish set-aside procedures and criteria.

Eighth, the M/W/LBE Advisory Committee should have specified responsibilities, such as to identify information needed from the



departments, evaluate progress and remedial actions at mid-year, and recommend and approve program revisions and.

Ninth, conduct mid-year evaluations which include requesting HRC approval for setasides or DBE procedures.

Tenth, allow departments to develop HRC-approved programs and definitions meeting their particular needs.

Eleventh, clearly define "joint ventures" for concession leases.

Finally, clarification is desired on applying and reporting subcontracting data; and minority prime contractors shouldn't be required to subcontract or sublease.

#### San Francisco Port Commission

The Port Commission, upon recommendation of Arthur M. Osborne, Director, Engineering and Maintenance, voted to recommend to the HRC that it recommend an extension of the Ordinance. Mr. Osborne pointed out that the Port has received good services from MBE/WBE/LBE contractors, the Program has increased their participation, and those contractors have received work due the Program's influence.

Rudy Nothenberg  
Chief Administrative Officer

Mr. Nothenberg wrote to support the Ordinance, noting that legislation in its embryonic stage is often difficult to implement, requires involvement of many parties, and can be terminated only when its goals are conclusively achieved.



Milton R. Edelin  
Deputy Director  
Department of City Planning

Mr. Edelin wrote to support extension of the Ordinance, crediting it with significant progress in minority and woman owned business contracting. He urged that MBE/WBE professional consultant subcontractors be enumerated in departmental reports, and that HRC credit legitimate MBE/WBE professional consultants which are not certified.

### CHAPTER THREE: FINDINGS AND RECOMMENDATIONS

#### 1. Findings

WHEREAS, the Board of Supervisors in April 1984 adopted the Minority/Women/Local Business Utilization Ordinance ("the ordinance") to address discriminatory practices inherent in the City's procurement process which resulted in the virtual exclusion of minority and women business enterprises as prime contractors on City contracts and leases and whereas the Board of Supervisors also sought to offset economic disadvantages faced by local businesses that are not shared by nonlocal businesses; and

WHEREAS, the ordinance expires May 11, 1989 unless the Human Rights Commission ("the Commission"), after conducting public hearings, finds that the objectives of the ordinance have not been met in whole or in part and certifies this finding to the Board of Supervisors no later than October 23, 1988; and

WHEREAS, the Commission, having conducted public hearings in June and July of 1988 to determine whether the objectives of the ordinance have been met in whole or in part; and

WHEREAS, the Commission heard the testimony of 42 witnesses and business representatives and whereas the Commission reviewed the transcripts and written submittals of 127 minority, women and local business representatives; and

WHEREAS, the Commission has studied the testimonial and statistical evidence presented by the public, City departments, the Commission's staff and whereas the Commission also relies upon

its Commissioners' and its Director's knowledge about the City's compliance with the ordinance, such knowledge having been acquired through the implementation and monitoring of the ordinance during the past four years, the Commission hereby submits to the Board of Supervisors its Findings:

1. Outreach and advertising efforts by City departments have served to draw more minority and women business enterprises into the City's procurement system. However, the City needs to intensify its outreach and advertising efforts as well as its education/training programs to reach a broader segment of the MBE/WBE community.

2. The ordinance has provided City departments with uniform standards and criteria in the award of contracts and leases. However, these standards have not been applied consistently City-wide. This inconsistent application of the ordinance continues to give preference to majority businesses in the prime award process to the detriment of minority and women business enterprises.

3. The bid preference mechanism has afforded minority, women and local business enterprises a competitive "plus" when bidding or proposing on City contracts and leases. Consequently, the bid preference mechanism has assisted minority, women and local business enterprises to obtain City contracts and leases. Moreover, the bid preference has encouraged nonMBE/WBE/LBEs to enter into joint venture agreements with MBE/WBE/LBEs and compete for City contracts and leases. Several joint ventures of minority/women and minority/male owned firms have won large City contracts with the assistance of the bid preference. Although some businesses

claim the bid preference is anti-competitive, discriminatory, wasteful of taxpayers' monies and discourages businesses to compete for City contracts, the weight of the evidence supports a conclusion that the bid preference invites participation by formerly excluded businesses and hence promotes more competition, resulting in more competitive bids submitted to the City.

4. The contract set aside mechanism, where competition for selected contracts are limited to MBE/WBEs or joint ventures with MBE/WBEs, has not been authorized by the Director on a frequent or extensive basis over the past four years. On the advice of the City Attorney, the HRC Director has regarded the contract set aside mechanism as a measure to be used in last resort type cases where a department, despite its good faith efforts and the application of the bid preference, has failed to substantially meet the minimum goals for MBE/WBE participation. Despite the claim by several departments that the contract set aside mechanism is essential to ensure participation by MBE/WBEs, the City has made steady progress City-wide toward the MBE/WBE goals while only making sparing use of the contract set aside mechanism.

5. Bonding, insurance and fee-related requirements imposed on contracts and leases continue to have the effect of limiting the number of newly established or small businesses that can compete for prime awards.

6. The certification process for minority, women and local business enterprises is time-consuming, burdensome, and expensive.

7. Without the ordinance many small MBE/WBEs would be unable



to compete for and win prime awards of City contracts and leases.

8. Local businesses which seek to enter into contracts with the City continue to labor under a competitive disadvantage with businesses from other areas because of the higher costs of doing business in the City.

9. Some City departments continue to operate under the "old boy network" when awarding contracts. Some businesses complain that discrimination and insensitivity against MBE/WBEs continues to persist in the City's procurement process.

10. The most recent data available reflect that the numbers of MBEs and WBEs have increased over the past four years at least as much as the nonMBE/WBEs. Based on these data, the Commission concludes that MBEs and WBEs continue to constitute at least 33% and 25% respectively of San Francisco based businesses. In the construction industry, the numbers of MBE/WBE prime construction contractors have also increased. Based on these data, the Commission concludes that MBEs and WBEs continue to constitute at least 30.59% and 10.65% respectively of the prime construction contractors. The "selected services" category is defined to include the following services:

- hotels and other lodging places
- personal services
- business services
- auto repair, services, and garages
- miscellaneous repair services
- motion pictures
- amusement and recreation services
- health services
- legal services
- educational services
- social services
- museums, botanical, zoological gardens
- miscellaneous services: engineering and architectural



services; noncommercial research organizations;  
accounting, auditing and bookkeeping services;  
miscellaneous services

San Francisco based MBEs and WBEs make up 41.23% and 40.13%, respectively, of the total businesses in this contract area.

11. A majority of the MBE/WBE businesses that do or wish to do business with the City are located in San Francisco and the Bay Area.

12. In a recent audit of City departments' compliance with the ordinance, the Budget Analyst estimated that the total dollar value of all agreements and contracts awarded by the City is \$800 million. MBEs were awarded \$36,038,416 of this amount or 4.54%; WBEs were awarded \$3,818,357, or 0.48%. In 1984 the Commission adopted a regulation that defined the base figure from which MBE/WBE goals are calculated as "eligible contract dollars." The definition of "eligible contract dollars" is: "the total dollar value of contracts to be awarded by a department during a fiscal year excluding contracts with non-profit agencies, contracts awarded according to federal or State of California requirements that conflict with or preempt the Ordinance, and contracts for which waivers were granted by the Director." In 1987 the total dollar value of "eligible contract dollars" was approximately \$152 million. For fiscal year 1986-87, "eligible contract dollars" as reported to HRC amounted to \$151,671,120. MBEs were awarded \$36,038,416 - 23.7% participation. WBEs received \$3,818,357 - 2.5 percent.

13. The most recent complete data available reflect that for

personal services contracts MBEs received \$3,881,721 or 15.6%, and WBEs received \$996,639 or 4.0%, of eligible contract dollars while nonMBE/WBEs received \$17,606,389 or 70.7%. Noncertified MBE/WBEs received 10% of personal service contracts.

14. The most recent complete data available reflect that for purchasing contracts, MBEs and WBEs have received 13.9% and 5.5% respectively of eligible contract dollars while nonMBE/WBEs have received 80.5%. Of the total dollar value of all prime purchasing contracts, MBEs and WBEs received \_\_\_\_%<sup>1</sup> and \_\_\_\_% respectively while nonMBE/WBEs received \_\_\_\_%.

15. The most recent complete data available reflect that for construction contracts, MBEs and WBEs have received \_\_\_\_% and \_\_\_\_% respectively of eligible contract dollars while nonMBE/WBEs have received \_\_\_\_%. Of the total dollar value of all prime construction contracts, MBEs and WBEs received \_\_\_\_% and \_\_\_\_% respectively while nonMBE/WBEs received \_\_\_\_%.

16. In 1984 large and small MBEs and WBEs were found to have been virtually excluded from an equal opportunity to compete for prime awards of City contracts and leases. In 1987 the minimum participation goals of 10% and 2% for MBEs and WBEs respectively were met City-wide when applied to the eligible contract dollar base. The higher participation goals of 30% and 10% for MBEs and WBEs respectively were not met City-wide when applied to the eligible contract dollar base. In some areas, such as construction, MBEs fared very well -- 37.7% of the total eligible contract dol-

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<sup>1</sup> Data is currently being obtained from the Controller and City departments for all values not specified in Paragraphs 14 through 17.

lar base. However, when compared to the total dollar value of all prime construction awards MBEs received only \_\_\_\_%. WBEs have made only modest progress in the construction contract area: 1987 WBEs received only .02% of the prime construction contract awards (eligible contract dollar base). In the services contract area the progress of MBEs and WBEs is difficult to assess because the available data do not reflect the availability of MBEs and WBEs in the various services area.

17. The majority of MBEs and WBEs, approximately \_\_\_\_%, which did not benefit from the remedial provisions of the ordinance over the past four years meets the Commission's definition of "small MBE/WBE."

18. Subcontractor or sublessee goals for MBE/WBEs are necessary to assist MBEs and WBEs develop entrepreneurial skills as prime contractors with the City in the industries where they are underrepresented. However, these goals should be imposed only on a contract by contract basis.

19. The Commission's ability to report on and verify the extent of MBE/WBE participation in City prime contracts and the availability of MBE/WBEs in various industries from which the City draws contractors has been hampered by inadequate resources and the failure of several City departments' timely and accurately to report their progress toward meeting the MBE/WBE goals.

## 2. Recommendations

In view of the Findings of Fact the Commission concludes that the objectives of the ordinance have not been met in whole.

Accordingly, the Commission recommends that the Board of Supervisors extend the ordinance for an additional three year period with the following changes:

1. Strengthen outreach, notice, education/training programs, technical assistance to MBEs and WBEs to increase their ability to compete effectively for the award of City contracts and leases. Require that City departments make special efforts to reach the WBE community.

2. Provide extensive training to City departments to ensure consistent application of standards and criteria set forth in the ordinance for the award of City contracts and leases.

3. Establish short and long term reasonably achievable goals for MBEs and WBEs in each contract area, e.g. purchasing, public works, leasing, personal service, architect, engineering. These goals should be adjusted annually and be based upon the availability of MBEs and WBEs in the applicable industries.

4. Limit the applicability of the MBE/WBE bid preferences, contract set aside mechanisms and goals to MBEs and WBEs which require assistance in developing their status and capability as prime contractors and lessees. Continue the LBE preference to those businesses with an established office in San Francisco. However, allow joint ventures which includes small MBE/WBEs or LBEs to receive the bid preferences.

5. Simplify the certification process.

6. Require that the City and County continue to seek action, within the limits of state and federal law, to assist MBEs and WBEs to meet bonding, insurance and other fee-related require-



ments.

7. Authorize the Commission director to grant a contract set aside only in last resort type cases where a department, despite its good faith efforts and the application of the bid preference, has failed substantially to meet the minimum goals for MBE/WBE participation. Before a contract set aside request is granted by the Director, at least 3 certified MBE/WBEs must be available to bid on the contract or lease.

8. Authorize City departments, with the approval of the Commission's Director and the review of the City Attorney, to impose on a contract by contract basis MBE/WBE subcontracting or subleasing goals on contracts and leases in those cases where: (1) these goals are necessary to assist MBE/WBEs develop entrepreneurial skills in industries where they are underrepresented; (2) the necessary and reasonable requirements of the contract/lease render subcontracting/subleasing feasible; and (3) sufficient qualified MBE/WBEs capable of providing the goods/services required by the contract/lease are available.

9. Provide for administrative procedures which allow businesses to establish that the ordinance's remedial measures should not be applied to their industries because MBE/WBE participation in City contracts have already achieved parity with their numbers in the business community and MBE/WBEs no longer suffer from a competitive disadvantage in the applicable industry.

10. Require City departments timely and accurately to report annually on their progress toward achievement of their MBE/WBE goals. Also require City departments to monitor the extent of



MBE/WBE participation in their contracts and leases to ascertain whether those MBE/WBEs no longer receiving bid preferences in fact are able to compete on an equal footing with nonMBE/WBEs or whether the absence of the bid preference has effectively prevented large MBE/WBEs from competing for and winning prime awards of City contracts/leases.

11. Designate a City agency other than the Commission, such as the Controller, as the agency charged with the collection of the necessary data to form the basis of the Commission's report to the Mayor, the Board of Supervisors, the Chief Administrative Officer and the public on the departments' progress toward achievement of their MBE/WBE goals and on the extent of the MBE/WBE participation in their contracts and leases.

12. Designate a City agency such as the Budget Analyst, to assist the Commission in continuing the collection of relevant statistical data which will allow the Board of Supervisors to determine whether and to what extent the ordinance must be extended because its objectives have not been met.

13. Approve the Commission's "eligible contract dollar" base figure or define the appropriate dollar base from which MBE/WBE goals are calculated.

14. Invite further testimony from the public, businesses and City departments on the impact of these recommendations.

15. Require that the Commission adopt rules and regulations consistent with the amended ordinance, establishing standards and procedures for effectively carrying out the amended ordinance.

# # #

## APPENDICES



## APPENDIX A

City and County of San Francisco

### Human Rights Commission

Office of Minority/Women Business Enterprise

Office of Contract Compliance

Office of Dispute Resolution



#### Announcement of Public Hearing to Extend The Minority/Women/Local Business Enterprise Program

For Information Contact:  
Clemente Obregon or  
Pansy Waller, 558-4901

#### Testimony Invited for HRC Public Hearing

The San Francisco Human Rights Commission (HRC) will hold public hearings on June 30 and July 14, 1988, to determine whether to extend the MBE/WBE/LBE (Minority, Women and Local Business Enterprise) Program beyond 1989.

City Ordinance 139-84 provides that in the program's fifth year, HRC shall recommend to the Board of Supervisors whether the program should be extended for a three year period.

The June 30 hearing will provide minority, women and local business owners, and other interested parties an opportunity to communicate their experiences in contracting with the City and County of San Francisco. The July 14 hearing will be primarily (but not exclusively) for representatives of City departments and other organizations.

The public is invited to attend and testify. As time for oral testimony is limited, persons wishing to speak should contact HRC to reserve a time. Others without a confirmed time may testify on a first-come, first-served basis for remaining time slots, as available.

The hearings will be held in the State Building, Room 1194, 350 McAllister Street. Each will commence promptly at 6:00 p.m. and adjourn at 9:00. Representatives of organizations will receive eight minutes to speak. Business owners and individuals will each receive four minutes.

Written testimony from organizations and individuals should be submitted on the date of their testimony. Other written statements should be submitted directly to HRC not later than June 30, 1988 - in any event received by HRC not later than July 14. Persons whose intended oral testimony exceeds their allotted time should summarize their oral remarks, and submit a full written text to HRC by the same date.

(over)

## MBE/WBE/LBE Program Beginnings

To determine the participation of minority and women-owned businesses in the City's contracting, HRC conducted public hearings in 1983.

It was found that less than 3% of contracting dollars went to minority and women-owned businesses combined, in Fiscal Year 1981-82. At that time, however, more than 30% of San Francisco businesses were minority-owned, and 25% were women-owned. Furthermore, HRC found that there were no uniform criteria or standards used in awarding contracts.

Consequently, the City and County of San Francisco established the MBE/WBE/LBE Program effective May 11, 1984. It requires City departments to assure that MBE/WBE/LBEs fully and equitably participate in contracting.

Contracting dollar goals were set for City departments: 30% for minority-owned businesses and 10% for women-owned businesses. An MBE, WBE, or LBE receives a 5% bid preference; an MBE or WBE that is also an LBE receives a 10% bid preference.

HRC determines and certifies whether a company qualifies as a minority or woman-owned business. HRC monitors both the ownership of certified companies, and the progress of City departments towards their contracting goals.

## Varying Degrees of Progress

In four years, the City has increased the numbers and dollar amounts of contracts to minority and women-owned businesses.

From a 3% combined MBE/WBE dollar share in 1981-82, in 1986-87 MBEs received 23.7% and WBEs received 2.5%.

There has been a wide variance in degree of progress, however. For example, MBEs won 28.9% of contracts in the Construction category, but lower shares of the Professional Services and Goods and Supply categories.

Also, only six of the City's 34 departments met their MBE goal and only two met the WBE goal in FY 1985-86.

At this juncture, it seems apparent that further work is needed to improve MBE/WBE/LBE participation in certain areas of contracting by the City and County of San Francisco. The public is invited to assist the Human Rights Commission in assessing the progress and areas of future work needed, by providing oral and written testimony.



## APPENDIX B

City and County of San Francisco

### Human Rights Commission

Office of Minority/Women Business Enterprise

Office of Contract Compliance

Office of Dispute Resolution



July 1, 1988

Re: PUBLIC HEARING TO EXTEND  
THE MBE/WBE/LBE ORDINANCE

Dear Representative:

You are invited to participate in a public hearing sponsored by the Human Rights Commission (HRC) to extend the Minority/Women/Local Business Enterprises Ordinance by determining whether or not the goals of this Ordinance have been met.

This public hearing will be held as follows:

DATE: Thursday, July 14, 1988  
TIME: 6:00 P.M.  
PLACE: State Building, Room 1194 (Auditorium)  
350 McAllister Street  
San Francisco, CA

Three hours have been set aside for this hearing.

At the hearing, organizations will be given eight minutes and individuals four minutes for testimony. If you intend to testify, we invite you also to submit your testimony in writing if at all possible. This would allow Commissioners the opportunity to review the testimony in order that the greatest amount of benefit may be obtained from all information gathered. If you cannot attend this hearing, you are encouraged to submit written testimony by July 14th.

Enclosed is general background on the MBE/WBE/LBE Ordinance and the objectives of the hearing.

Please contact this office to let us know of your intent to attend the hearing and make a statement and/or submit written testimony. Although this is not a prerequisite for testifying, it will help us in planning the hearing. Clemente Obregon and Pansy Waller of the HRC staff are coordinating this undertaking. You may reach them at the HRC offices or by telephone at 558-4901. Please contact them with any questions you may have.

Please testify on July 14th!

Sincerely,

*Frank Anderson*  
Frank Anderson  
Interim Director

FA:PPW:np  
Encl.



## APPENDIX C

# Public Hearings Rules of Procedures

## Minority/Women/Local Business Enterprise

The Human Rights Commission has established the following guidelines for the public hearings. This has been done in an effort to obtain relevant information in an orderly, meaningful and expeditious manner. Your cooperation is sought in achieving this objective.

Date: June 30, 1988 and July 14, 1988

Time: 6:00 to 9:00 p.m.

Location: 350 McAllister Street, Room 1194  
San Francisco, CA

**Objective:** Testimony will be taken from organizations, businesses and individuals who wish to comment on the status of the City and County of San Francisco MBE/WBE/LBE legislation and program. Specific testimony is sought on the pros and cons of renewing the legislation and continuing the scope of the program.

**Reservation:** All persons who wish to speak must sign up beforehand in person with HRC staff prior to testifying at the hearing. Specific time slots may be arranged earlier on a first come first served basis by 12 noon the day of the hearing by telephoning HRC and making a reservation. Contact Mr. Clemente Obregon or Ms. Pansy Waller at 558-4901.

**Timeframe:** Because of the large number of people who have already indicated that would like to participate in the hearing, oral testimony by both individuals and organizations will be limited. The following maximum timeframe will be allowed for testimony:

A: Organizations - 8 minutes

B: Businesses - 4 minutes

C: Individuals - 4 minutes

### Written Statements:

If at all possible, we would appreciate your testimony in writing. Written statements may be longer than oral presentation, as you may wish to include more detailed information you would have included in your original, longer allotted testimony. These written statements will be part of the official record.



## APPENDIX D

# WE WANT TO HEAR FROM YOU!

### PUBLIC HEARINGS TO EXTEND THE MINORITY/WOMEN/LOCAL BUSINESS ENTERPRISE PROGRAM

#### San Francisco Human Rights Commission

suant to the San Francisco Administrative Code Chapter 12D - Ordinance 139-84 public hearings be held by the Human Rights Commission to evaluate the Minority/Women/Local Business enterprise legislation and program. All interested persons are urged to attend and testify. The man Rights Commission needs information to develop recommendations regarding the future of program. Under the provisions of the legislation, the MBE/WBE/LBE program will go out of ex- nce in 1989, unless extended. Public hearings are required to establish a need to continue or end program. Please let us hear from you; preferably in person at the hearings. However, written ements will also be accepted by the HRC.

ould the Minority/Women/Local Business Enterprise program be continued?

☐

Yes

☐

No

lain

IE IS RUNNING OUT!



### Public Hearings

Thursday: July 14, 1988; 6:00 p.m.  
State of California Building  
350 McAllister Street, Room 1194  
San Francisco, CA

July 14, 1988 Hearing-City Departmental Representatives

e July 14, 1988 public hearing has been designated primarily but not exclusively for City depart-  
nt personnel and other governmental and organizational representatives. The general public will  
o be invited to testify. As a professional courtesy, a specific time slot will be assigned to City  
vernment personnel and other governmental representatives on a first come, first served basis by  
ervation only. Please call 558-4901 and ask for Mr. Clemente Obregon or Ms. Pansy Waller to  
ange scheduling for a time appointment for the hearing. Please reserve by 12 noon, July 14, 1988,  
ly if you are a City department of governmental representative. Otherwise all persons will be  
owed to testify as time slots become available in order of the requests to speak.





# APPENDIX E

ROSTER

MEETING Public Hearing on Extension of Ordinance  
 DATE AND TIME July 14, 1988 6 p.m  
 PLACE 350 McAllister St.

NAME	ADDRESS	PHONE	ORGANIZATION REPRESENTING
Sara Tuttle	1095 Market, SF 94103	864-3255	Women In Appren.
Norm-Harriet Ishino	1906 18th Ave SF	566363	KI Associates
Russell Waller	1095 Market	5584961	HRC
Sally Kippin	Mayor's Office	554-6128	
Ed Malina	1001 POTrero AVE	821-8100	SAN FRANCISCO GENERAL HOSPITAL
Sandra Crumpler	Airports Comm.	876-2215	S.F. Airport
Andray Oliver	AO - 271 City Hall	551-1192	CAO
ELITE JARRARD	FERRY BUILDING, 310	391-8000	PORT OF SF
Margie L. Regensburger	297-20th Ave, S.F.	221-0201	AGC
Ben Kawamura	Room 210 City Hall	554-6749	Purchasing
Michael Bortow	Golden Gate Park	750-7169	Calif. Academy of Science
Chris Brown	Health Dept. 101 Grove	554-2609	
Dorel W. Felmur	1670 Pine St	695-0535	SBE
Elizabeth Mulroy	1839-15th St.	626-2599	SFWLA
Elvior Sue Coates	35 Grove/1232 Market	421-3300	Newsletters Unlimited
Cheryl Perry League	2636 Cole	449-3188 X417	Pat of OAK
Don R. Phelps	1135- Church	941141	
William R. Campbell	284 City Hall St	941102	Purchasing
James F. Hahn	HRC		
Thomas Thompson	AGCC 1255 Post St SF 94109	776-2054	AGCC
Don W. Loran	8th & Te Dev.	562-4671	
Julie Jennings	1670 Pine St	928-5910	C.A.A.B.A.
Stanley Sundy	601 Van Ness St	928-6000	Budget Analyst
Jameth Louie	1321 LOWRIE AVE S.F.	5833574	ABC LOWRIE PARKING
Milton Kennedy	Hunter Point Way	9861-8873	Asian Spring Planting
Sharon Loran	AGCC	776-2054	AGCC
Michael W. Mis	33 New Montgomery	957-2750	SF AIA
Ed. Kallonen	1 Spear Tower	4420920	Bar Association of S.F.
Bob F. Pon	435-14th Ave.	386-5544	A.C.A. (Chinese American Assoc.)
Michael Tarbox	350 McAllister St.	557-1437	Senator Milton Marks
Arlene Koderga	245/1331 Evans	285-3771	Revisor Conn.

## ROSTER

MEETING Public Hearing on Extension of Ordinance  
DATE AND TIME July 14, 1988 6pm Chp. 12D  
PLACE 350 McAllister St.

NAME	ADDRESS	PHONE	ORGANIZATION REPRESENTING
Sharon Johnson	134 Clayton	554-6134	Mayor's Office
Shirley Schaffer	240 Van Ness	558-2373	Controller's Office
Nancy Katchell	301 Mission #400	543-9440	SF Lawyers Committee
CARA GRIFFITH	151 WARRINGTON, RIND CITY	344-4440	HODGSON CONSTRUCTION
John Moses	4820 Fulton 94121	231-1100	SF INDEPENDENT
Samuel Norn	427 Armand Way, Nether	543-6611	SF Black Under
Vicky Rimpl	HRC	558-4401	HRC
Linda H. Dean	HRC	558-4900	HRC
MICHAEL KELLY	SF HOUSING AUTHORITY 440 RUCK ST. 94118	554-1323	SF HOUSING AUTHORITY
Carol Kingsley	STE 359 4 Columbus Ave	434-1474	SF Women Lawyers
Atherine Brown	SF 665 Third St	543-3686	Commun. Comm.
Eva Peterson	301 Mission	543-9444	SF Lawyers Council
William Patch	310 PARRA AVE	468-4309	SF CONTRACTOR
Edward Fleiss	215 QUEEN AVE	551-8707	SF CONTRACTOR
GREG ROJA AIA	150 POST ST, SUITE 410	543-9742	GREG ROJA AIA + ASSOC ARCHITECTS
PETE LAPID P.E.	833 MARKET ST. #504	543-4644	POLA, INC.
JON MAYES	1333 WEBSTER S.F. PLANT	865-6664	LHAS HOUSTON BAR ASSN
Jolly Romero	1331 EVAN AVE	285-3300	Belrios Construction
Pamela Scott	COSW/1095 market	558-3653	COSW
Jacquie Dale	COSW	" "	" "



## ROSTER

MEETING

DATE AND TIME

PLACE

ADDRESS

ORGANIZATION  
REPRESENTING

Wen Kaplan	2757	16	St	863- <sup>4223</sup> <del>422</del>	Acc Mailing
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439 Arch SF	94103 94133	239049	HRC
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John Kasey	2339-41 <sup>st</sup> Ave	524 9.30	ABC
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Frank Chaff	557 McMullen	557-071	
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Jay Ward	10 Lyon St #206	861-3455	None
DF 11 11	206 100 E. 1st		

AK Hamilton	8275 Jan Landrost	632-3173
B	911	558-110

Dayan, Fouz	HRC	338-470	
Abul, Bakul	9061 Packer AIR	922-1339	AWC

179 Road Hill Cr	179 Westside Riv	180 Riv
1631 Juncos Rd NW	212 Riv	FED m

4031 V. D. R. C. A. M. 12	361-7-3-3	11-3-3
515 V. E. R. A. S. F.	49-7-9-9	11-11-5

1331 Evans S-F	2853820	Benn's Const
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Kevin Williams	Hrc	876-2457	Hrc.
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John Ransen	20 W 3rd Ave SM	342 9026	
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Pink cards

ROSTER

MEETING MBE/WBE/DBE Public Hearings for Extension of Ordinance  
 DATE AND TIME June 30, 1988  
 PLACE 350 McAllister Street

NAME	ADDRESS	PHONE	ORGANIZATION REPRESENTING
T. PETER LAM	844 Folsom	777-1818	AAAE
PAUL CARTER	537 JONES ST. STE 1050	776-2102	CARTER ENTERPRISES
Evelyn R. Ph. Clark	500 Stanyan #202	752-8681	The Workshop
R. Martin	665 3rd St #501	543-8686	COMMUNICOMP
BEN KAWANURA	Room 270 City Hall	554-6747	Purchasing Dept.
Harry D. HARRIS	255, Commercial	587-1157	Harry D. Harris Co.
Elinor Sue Coates	35 Grove/1232 Market #112	431-3300	Sell and Newsletter United.
EUNICE ROBINSON	170 Page St.	863-8484	Wanted diverse BUSINESS
Shirley M. Smith	4215 Leary	752-8221	Coalition of Bay Area
Petricia Hopew	2339 Third St #33 SF	863-6688	M.BE/WBE Advisory
Tom Jarry	530 JACKSON ST	956-5711	NABO/SF
Carol Muckin	507 Los Palms Dr	858-4701	FINER & MOY ARCH.
Judy Long	1909 University Ave	1323-2235	Self-employed
Elizabeth Mulroy	1839-15th St. SF	94103 626-2379	SF Women Lawyers Alliance
Benjamin H. Lee	2 CLAYTON DIST	84816 658-258	MOORE & LEE
Frank Chang	350 McAllister #506	557-0734	Willie Brown Jr.
Dorothy Erickson	301 RIANO ST.	283-3711	NATIONWIDE
William J. McDonald	260 DEWE ST. SF	363-9727	McDonald Elevator
Alber	3026 Fulton		HANLEY
Ad Morgan	"	"	"
David T. Yee	1670 Pine St		ASIAN INC.
Carol Kinsey	4 Embarcadero Ctr	434-1474	SF Women Lawyers
Joyce Steele	2757 - 16th	933-4223	Accumule Alliance
Cheng	1/2 HOOIS 638 Spring St	233-4900	NAMIC
James	3026	468-1850	A Answer Inc.
Wegman	609 MISSION	495-4204	Eugene Law Assoc
Willie R. Ruff	310 Teddy	468-4709	Liberty Builders
Orlando C. Baker	2001 Bay St 1024 S.F. CA 94111	421-0805	BAKER FOODS, INC



ROSTER

MEETING NBB/UBB/CC Public Hearings for Extension of  
 DATE AND TIME June 30, 1988 Ordinance  
 PLACE 350 McAllister Street

NAME	ADDRESS	PHONE	ORGANIZATION REPRESENTING
Robert Campbell	284 City Hall	551-6244	Purchasing
Jandra Campbell	Airports Comm.	876-2215	
Eol Malera	1001 POTRERO SFGH DPH	821-8100	SFGH DPH
Selwyn Whitehead	4654 Grove Avenue Oakland CA 94610	635-8194	Coalition of Bay Area Women Owned BUS
JULIAN D. MUNOZ	295 ANDOVER 94110	871-0709 543-5326	GROUP 4/ARCHITECTURE, RESEARCH AND PLANNING
ZOYA LEE SMITHSON	170 PAGE ST. 94102	863-8484	COALITION OF BAY AREA WOMEN OWNED BUS
FRANK S. FINE	1660 PACIFIC AVE, SF 94109	474-1900	COUNCIL OF ASIAN AMERICAN BUSINESS ASSOCIATIONS
Donna	170 Hubbell	770-2051	ACC
L. Lee Murphy	Reed, S.F. 94133	658-5885	Black Chamber of Commerce
Mike Wilson	1665 HUDSON	647-8812	WACA
KENT L. LIM	1260 EBBERT	822-1232	WACA
CHARANJIT SINGH OGRA	154 TRUMBALL SAN FRANCISCO	586-2256	OGRA SECURITY SERVICES.
EDDY LAU	22 BATTERY ST. SAN FRANCISCO	788-8627	CAABA
R. Ramirez	1485 Bay Street	468-5711	WLBAY
Carolyn Paritz	283 Koun Ave	381-1035	WCOE
CAROL CRESC. COLBERT	3233 BRUDENICK	922-1411	WCOE
Shirley E. Smith	850 77th Ave Oakl	632-1110	WCOE
JOSE L VILLALOBOS	3945 Smini St Oakland, CA 94612	489-9660	VILLALOBOS & ASSOCIATES
Quinn Chang	1670 Pine St SF	928-5910	ASIAN INC
VIRGILIO BROSSE	73 MISSION	86-0741	Ocampo-Tales
Steve Aranda	Westley Pili		
Steve Aranda	Suite 418 1390 Market St	864-8484	Bend's Environmental Research, Inc.
Edwin M. Lee	36 Waverly Pl #2 SF 94108	391-1056	
Marcus Van Hook	2333 4th St Oakland CA	761-5555	Van Hook Electric Co.
Frank	628 Springs street 57 Park St	469-5550	GORAN/OVERSTREET NORMA
Robert B. Blakely	1638 Yosemite ave	823-7555	BLAKELY'S Trucking
Kevin Williams	176 Broadford St	421-6257	

ROSTER

MEETING MOB/WB2/LBE Public Hearings for Extension of Ordinance  
 DATE AND TIME June 30, 1988  
 PLACE 350 McAllister St.

NAME	Full ADDRESS	PHONE	ORGANIZATION REPRESENTING
Jamie Hillebr	85 Cleary Ct.	573-8299	AFSPW Inc.
Robert C Sanchez	2778-24th St	SF 94110 282-2400	SF Hispanic Chamber
Hyler Womack	4786 Redwood Hwy.	442-1849	H-Phu Kheung, Inc.
Roy Okano	1715 Webster St	SF 94115 931-8818	CREATIVE CIRCLE
Richard B. STEIN	1232 MARKET ST	55891x7	City Parking Co.
Neel Advani	100 Marin Center Drive #6	479-6631	Nat'l Assoc of Women Bus. Owners.
Suzanne Taylor	San Rafael, CA	94903	
E. Conley	P.O. Box 11371		Piedmont CA
John Moss	4820 Fulton St.	752-6485	SF Independent
? Carmel Stein	Many Skipped Knits Pt	822-1550	PTC
Thomas I. D. Lopez	AGCC (Speaking Tomorrow)	776-3051	
AL BORUICE	448 Mission St	SF 94105 301 94105	
FRIDIE-REYES	114 JORDAN AVE. SAN ANSELMO, CA 94060	453-8691	CAAAZ Reg
Naomi Gray	1188 Franklin	94109	
ERIC TUE	17 Waltham Pl.	SF 94105	822-0801 CAA
S.F. Post	P.O. Box 4320	94101	SF Post News
Mary Ratchiff	SF Lawyer Committee 301 Mission St	94105	SF Lawyer Comm.
? CARLOTTA CHAZZ	RECREATING DEPT CLCS	SF 94102	SF P & County
MARCIA ELIA	425 South Rd Belmont	94002	S.I.S.
Bob ELIA	425 South Rd Belmont	94002	S.I.S.
Raymond J. Collins	245 Clement St	668-2083	ORSEE DESIGN ASSOC.
<del>Sam Van Hook</del>	<del>638 Spring St</del>	<del>333-8900</del>	<del>VANHOOK ELECTRIC</del>
Julianne M. Jensen	220 Kingston St.	641-4052	NAAAP/SFBust Prof Women
Harriet Christy	244 Alexander	863-8335	ITROD Radio
Arnold Bakat	949 Nevada Ave	923-6139	SF PUC
Muhammad Al Kareem	P.O. Box 2477	833-1120	Myself



## CHAPTER 12D

## MINORITY/WOMEN/LOCAL BUSINESS ENTERPRISES

- Sec. 12D.1. Short Title.
- Sec. 12D.2. Findings.
- Sec. 12D.3. Declaration of Policy.
- Sec. 12D.4. Scope.
- Sec. 12D.5. Definitions.
- Sec. 12D.6. Powers and Duties.
- Sec. 12D.7. Utilization Goals.
- Sec. 12D.8. Utilization Requirements—General.
- Sec. 12D.9. Utilization Requirements—Public Works.
- Sec. 12D.10. Utilization Requirements—Purchasing Contracts.
- Sec. 12D.11. Utilization Requirements—Concession, Franchise and Lease.
- Sec. 12D.12. Utilization Requirements—Consultants, Professional Services and Other Contracts.
- Sec. 12D.13. Exceptions and Waivers.
- Sec. 12D.14. Monitoring, Reporting and Compliance.
- Sec. 12D.15. Review.
- Sec. 12D.16. Severability.

SEC. 12D.1. SHORT TITLE. This ordinance shall be entitled the "Minority/Women/Local Business Utilization Ordinance" and may be cited as the "MBE/WBE/LBE Ordinance." (Added by Ord. 139-84, App. 4/11/84)

SEC. 12D.2. FINDINGS. The Human Rights Commission, having conducted public hearings pursuant to Resolution 952-82, adopted by the Board of Supervisors on December 13, 1982, to determine the extent of minority and women business participation in City and County contracts:

And the Human Rights Commission, having, in February, March and April of 1983, heard the testimony of 42 witnesses and reviewed the transcript and written submittals of 16 minority, women and small business representatives; And this Board, having conducted additional hearings, taken additional testimony and written submittals, and reviewed the report of the Human Rights Commission (all of which shall be incorporated herein by reference), hereby makes the following findings:

1. That historic discrimination against minorities and women, often officially sanctioned and enforced by government from the inception of our Republic to the present has had a serious, negative impact on their ability to participate fully and equitably in our society; and
2. That because of centuries of limited access to the marketplace, as workers and as entrepreneurs, and because of the failure of local governmental agencies to take affirmative steps to remedy overt and subtle discrimination, women and minorities have suffered severe economic harm; and
3. That, in a city which has a minority population of nearly 50 percent, a female population of nearly 60 percent, and a civilian workforce which is 45 percent female, the public interest will best be served by our enactment of an Ordinance

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mandating policies and programs which will enhance the opportunities for women-owned and minority-owned businesses to become prime contractors in the provision of goods and services to the City and County of San Francisco; and the Board further finds:

4. That local businesses which seek to enter into contracts with the City and County of San Francisco are at a competitive disadvantage with businesses from other areas because of the higher administrative costs of doing business in the City (e.g., higher taxes, higher rents, higher wages and benefits for labor, higher insurance rates, etc.); and
5. That the public interest would best be served by encouraging business to locate and remain in San Francisco through the provision of a minimal "good faith" preference to local businesses in the awarding of City contracts; and
6. That policies and programs which enhance the viability of minority-owned, women-owned, and local businesses will best serve the public interest because the growth and development of such businesses will have a significant positive impact on the economic health of the City; and
7. That the findings of the Human Rights Commission, as detailed in their report, offer clear and persuasive reasons for the Board of Supervisors to take the actions proposed by this Ordinance to correct the practices which have resulted in the virtual exclusion of minority-owned and women-owned businesses from prime contracts with the City, and in the competitive disadvantages faced by local businesses in providing goods and services to the City. These findings include:
  - (a) That the departments and awarding authorities of the City and County of San Francisco are functioning without specific uniform standards and criteria in the award of contracts and leases of the City and County;
  - (b) That the award of nonconstruction contracts is mainly at the discretion of the awarding authority staff, resulting in the award process being available to a very limited portion of the business community;
  - (c) That minority-owned and women-owned businesses and other small local businesses are particularly disadvantaged by the lack of uniform standards and criteria in the processes by which City contracts are awarded;
  - (d) That the in-depth review conducted by the Human Rights Commission of prime contracts, leases, and other agreements awarded by City and County departments reveals that Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) combined received less than 2.8 percent of all prime contracts (exclusive of subcontracts) awarded during a base period of 1981 and 1982, which represented approximately \$25,000,000 of a total amount in excess of \$869,000,000 awarded for the years cited;
  - (e) That this virtual exclusion of minority-owned and women-owned businesses from City contracts has occurred notwithstanding the fact that MBEs represent in excess of 33 percent, and WBEs 25 percent, of all San Francisco based firms;
  - (f) That the results of the survey by the San Francisco Human Rights Commission (HRC) provide an objective standard for holding that there is de facto exclusion of minority-owned and women-owned business from the City and County prime contract award process;

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(g) That this exclusion causes irreparable economic and social harm to these protected classes and adversely affects the economic health of the City and County of San Francisco;

(h) That the exclusion of minority-owned and women-owned businesses from contracting opportunities with the City will continue unless affirmative action is mandated for all City awarding authorities by the Mayor and by the Board of Supervisors;

(i) That the lack of an affirmative City policy to remedy this situation tends to give preference to majority businesses in the prime award process, to the virtual exclusion of participation by minority-owned and women-owned businesses, and thus perpetuates the effects of past discrimination;

(j) The competitive bid process, as applied to construction and suppliers, permit exceptions within the process which tend to eliminate MBEs and WBEs from an equal opportunity to compete for an equitable share of prime awards; and that this process is detrimental to the development, growth and operation of MBEs and WBEs within the City and County;

(k) The Board of Supervisors further finds that the lack of notice of bids and proposals by the limited advertisement and outreach of such business opportunities to the MBE/WBE community and to other small local businesses further compounds the problem, and contributes to the virtual exclusion of MBEs and WBEs from prime contracting with the City and County;

(l) That other conditions in the general and special bids and proposals procedures are often unrelated to actual performance (such as excessive bonding and insurance and other fee-related requirements) and have the effect of eliminating MBEs and WBEs and small local businesses from a fair chance to bid and compete for prime awards;

(m) That the aforesaid practices have operated in the past, continue to exist and create an invidious form of discrimination against minorities and women seek to operate businesses within the City and County of San Francisco; and

(n) That immediate institution of remedial and corrective action by the Board of Supervisors is necessary in order to help reduce the serious inequities and intergroup tensions that inevitably flow from the lack of clear policy in this area and that can erode trust in government and detrimentally affect the peace and harmony that must exist among the richly diverse population of the City and County of San Francisco; and

8. The Board further finds it is necessary, in complying with the intent of this Ordinance, that within 120 days of its enactment, appropriate rules, regulations and procedures be developed, adopted, and publicly promulgated by the Human Rights Commission; and that the public and affected agencies have the opportunity to provide input to and comment on the regulations prior to their formal adoption. (Added by Ord. 139-84, App. 4/11/84)

SEC. 12D.3. **DECLARATION OF POLICY.** It is the policy of the City and County of San Francisco to ensure the full and equitable participation by Minority Business Enterprises and Women Business Enterprises, and by local businesses, as prime contractors in the provisions of goods and services to the City and County on

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a contractual basis. The thrust of this program is to ensure the award of prime contracts to MBE/WBEs and local businesses and to develop their status and capability as prime contractors of the City and County of San Francisco. The ultimate goal of this ordinance is to eliminate the effects of historic discrimination which is manifested in the present low levels of MBE and WBE participation in City contracting, and to offset some of the economic disadvantages faced by local businesses.

The City will rely on the relationship between the percentages of minorities and women in the community and their respective shares of City contracts as a measure of the effectiveness of this Ordinance in remedying the effects of aforementioned discrimination. The immediate aim is to achieve annual City and County-wide goals of not less than 30 percent for Minority Business Enterprises and not less than 10 percent for Women Business Enterprises.

The City and County of San Francisco is utilizing a preference for local business in the award of City and County contracts in order to encourage business to locate and remain in San Francisco and thereby increase the number of employed persons living in San Francisco. The additional cost to businesses located in San Francisco has been estimated as high as 15 percent; a preference of five percent for local businesses bidding on City contracts constitutes "good faith" on the part of the City in support of businesses which contribute to the economic health of the City. The percentage is a reasonable expression of that good faith, does not unduly hamper nonlocal businesses in the contracting process, and parallels the preferences awarded in many other local jurisdictions. (Added by Ord. 139-84, App. 4/11/84)

SEC. 12D.4. **SCOPE.** The provisions of this ordinance shall apply to all contracts awarded by the City and County and services utilized by the City and County except as may be hereinafter specifically exempted, and shall be liberally construed to accomplish its policies and purposes. (Added by Ord. 139-84, App. 4/11/84)

SEC. 12D.5. **DEFINITIONS.** "Back Contracting" shall mean any agreement or other arrangement between a prime contractor and its subcontractor where the prime contractor performs or secures the performance of the subcontract in such a fashion and/or under such terms and conditions that the prime contractor enjoys the financial benefits of the subcontract. Said agreement or other arrangement includes, but is not limited to, situations where either a contractor or subcontractor agrees that any term, condition or obligation imposed upon the subcontractor by the subcontract shall be performed by or be the responsibility of the prime contractor.

"Bidder" shall mean any business that submits a bid or proposal to provide goods or services to the City and County.

"Concession" shall include any grant of land or other property by or on behalf of the City and County of San Francisco to a person for the purpose or use specified in said grant.

"Contract" shall mean and include any agreement to provide labor, materials, supplies or services in the performance of a contract, franchise, concession or lease granted, let or awarded for and on behalf of the City and County of San Francisco.



"Contractor" shall mean any person or persons, firm, partnership, corporation, or combination thereof, who submits a bid and/or enters into a contract with department heads and officers empowered by law to enter into contracts on the part of the City and County for public works or improvements to be performed, or for a franchise, concession or lease of property, or for goods and services or supplies to be purchased at the expense of the City and County or to be paid out of monies deposited in the treasury or out of trust monies under the control of or collected by the City and County.

"Contract Awarding Authority" shall mean the City and County officer, department, commission, employee or board authorized to enter into contracts on behalf of the City and County.

"Controlled" for the purpose of determining whether a business is a Minority Business Enterprise, or Women Business Enterprise, shall mean the minority(ies), the women or combination of minorities and women, as the context requires, shall (1) possess legal authority and power to manage business assets, good will and daily operations of the business; and (2) actively and continuously exercise such authority and power in determining the policies and directing the operations of the business.

"Director" shall mean the Director of the Human Rights Commission of San Francisco.

"Franchise" shall mean and include a right or privilege conferred by grant from the City and County of San Francisco, or any contracting agency thereof, and vested in and authorizing a person to conduct such business or engage in such activity as is specified in said grant.

"Franchisee" shall mean and include a person who is the grantee or beneficiary of a franchise as herein defined.

"Human Rights Commission" shall mean the Human Rights Commission of San Francisco, consisting of Commissioners appointed by the Mayor; hereinafter, it shall be referred to as the Commission.

"Lease" shall mean and include a contract by which the City and County of San Francisco or any contracting agency thereof, grants to a person the temporary possession and use of property for reward, and the latter agrees to return the same to the former at a future time.

"Lessee" shall mean and include a person or tenant taking possession of property under a lease as herein provided, and further includes a bailee under a bailment agreement providing a renewal for personal property.

"Local Business" shall mean a business firm with fixed offices or distribution points located within the boundaries of the City and County of San Francisco and listed in the Permits and License Tax Paid File with a San Francisco business street address. The Post Office box numbers or residential addresses may not be used solely to establish status as a "Local Business."

"Lower tier subcontracting" shall mean any agreement or other arrangement between a subcontractor and a person as defined herein where it is agreed that said person shall perform any term, condition or obligation imposed by the subcontract upon the subcontractor.

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"Minority," "Minorities," or "Minority person" shall mean ethnic persons of color including American Indians, Asians (including, but not limited to, Chinese, Japanese, Koreans, Pacific Islanders, Samoans, and Southeast Asians), Blacks, Filipinos and Hispanics.

"Minority Business Enterprise (MBE)" shall mean an independent and continuing business for profit, which performs a commercially useful function, and which is owned and controlled by one or more minority persons residing in the United States or its territories.

"Owned," for purposes of determining whether a business is a minority business enterprise or women business enterprise, shall mean that the minority or women as the context requires, shall possess an ownership interest of over fifty percent of the business, and shall:

1. Possess incidents of ownership, such as an interest in profit and loss, equal to at least the required ownership interest percentage; and
2. Contribute capital, equipment and expertise to the business equal to at least the required ownership percentage.

Ownership shall be measured as though not subject to the community property interest of a spouse, if both spouses certify that (a) only one spouse participates in the management of the business, and (b) the nonparticipating spouse relinquishes control over his/her community property interest in the subject business.

"Person" includes one or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, or any group of persons, including any official, agent or employee of the City and County of San Francisco.

"Subcontractor" shall mean any business providing goods or services to a contractor for profit, if such goods or services are procured or used in fulfillment of the contractor's obligations arising from a contract with the City and County of San Francisco.

"Women Business Enterprise (WBE)" shall mean an independent and continuing business for profit which performs a commercially useful function and which is owned and controlled by one or more women residing in the United States or its territories. (Amended by Ord. 402-85, App. 8/29/85)

SEC. 12D.6. POWERS AND DUTIES. (A) In addition to the duties and powers given to the Human Rights Commission elsewhere, the Commission is empowered to:

1. Establish appropriate goals for minority and women business enterprise utilization by City agencies, departments and other City awarding authorities;
2. Limit the applicability of the ordinance to MBEs and WBEs which require assistance in developing their status and capability as prime contractors;
3. Review and periodically report to the Mayor, the Board of Supervisors and the Chief Administrative Officer and the public the progress of departments and awarding authorities toward achievement of their goals for the utilization of minority and women business enterprises;
4. Levy sanctions as specified in Sections 12D.8(B)(10);
5. Subpoena persons and records, books and documents for a proceeding of the Commission conducted to further the purposes of this Ordinance; and

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6. Adopt rules and regulations, consistent with this ordinance and the Administrative Code of the City and County of San Francisco (Chapter 12D), establishing standards and procedures for effectively carrying out this ordinance.

(B) In addition to the duties and powers given to the Director elsewhere, the Director shall:

1. Recommend appropriate goals to the Commission;
2. Through appropriately promulgated procedures, certify businesses as bona fide MBEs/WBEs/LBEs;
3. Provide information and other assistance to MBEs and WBEs to increase their ability to compete effectively for the award of City and County contracts;
4. Assist the City and County and community agencies to increase participation by MBEs and WBEs in City and County contracts;
5. Develop education and training programs for MBEs and WBEs and City and County contract awarding personnel;
6. Review quarterly Management-By-Objectives data of departments to ascertain the degree of achievement of their goals.

(C) The requirements of this ordinance are in addition to and separate from those imposed by the United States or the State of California as a condition of financial assistance or otherwise; however, the Director with the concurrence of the Commission may authorize the substitution of such State or Federal Minority Business Enterprise and Women Business Enterprise requirements for the requirements of this ordinance whenever such State or Federal requirements are substantially the same as those of this ordinance.

(D) The Director, with the approval of the Commission, may enter into cooperative agreements with agencies, public and private, concerned with increasing the utilization of MBEs and WBEs in government contracting, subject to the approval of the Board of Supervisors of the City and County of San Francisco. (Added by Ord. 139-84, App 4/11/84)

**SEC. 12D.7. UTILIZATION GOALS.** (A) The Commission shall establish City and County-wide annual goals, consistent with Section 12D.3. These goals shall be expressed in terms of a percentage of the total dollar value of all prime contracts to be awarded by the City and County. With the concurrence of the Commission, the Director may establish such goals separately for categories of contracts, such as public works construction, architects and engineers, leases, franchises and concessions, professional services and purchasing contracts. Goals shall be reasonably achievable, and shall be based upon, but are not limited to, the following factors:

1. The degree to which such annual goals will contribute to the achievement of the ultimate goal of eliminating the effects of historic discrimination and increasing the participation of MBEs and WBEs in City contracts as set forth in Section 12D.3 of this ordinance (Declaration of Policy).

2. The level of participation of MBEs and WBEs in contracts awarded by other governmental agencies in the San Francisco Bay Area which have utilized MBE and WBE requirements;

3. The availability of MBEs and WBEs which are capable of providing goods and services to the City and County while actively encouraging the development of Minority and Women Business Enterprises;

(B) The Director, with the advice of each contract awarding authority, shall recommend to the Commission the establishment of separate annual goals for utilization of MBEs and WBEs by that awarding authority. (Added by Ord. 139-84, App. 4/11/84)

**SEC. 12D.8. UTILIZATION REQUIREMENTS — GENERAL.** (A) The City and County of San Francisco shall have the authority to:

1. Take action, within the limitations of State and Federal law, to assist MBEs and WBEs to meet bonding, insurance and other fee-related requirements; such action could include the creation of a special revolving fund;
2. Establish a central office where all bids, requests for proposals and solicitations will be listed and kept current;
3. Provide technical assistance to MBEs and WBEs to increase their ability to compete effectively for the award of City and County contracts.

(B) Contract awarding authorities shall:

1. Solicit and obtain bids and proposals from MBEs and WBEs on all solicitations, or document their unavailability;
2. Set aside 10 percent of the total dollar value of all contracts to be awarded by each contract awarding agency for MBEs and set aside two percent for WBEs for the fiscal year with the provision that a joint venture can be credited to the extent of Minority or Women Business Enterprise participation in the joint venture;

3. Extend a five percent preference for a local business (except where prohibited by State or Federal law or regulation) and a five percent preference for a minority or women bidder or proposer in the award of all bids and contracts and in the composition of rating scales; however, local minority or women bidders shall receive a 10 percent preference;

4. Arrange contracting by size and type of work to be performed so as most effectively to enhance the opportunity for participation by MBEs and WBEs to the maximum extent feasible;

5. Except as prohibited by State or Federal law or regulation, adjust bidding requirements for and/or make loans, subject to the availability of appropriate funds, to MBEs and WBEs when advisable, appropriate and necessary to achieve the declared policy of this ordinance;

6. Utilize a revolving fund as may be established by the City to assist MBEs and WBEs to meet bonding, insurance and other fee-related requirements;

7. Submit to a central office current bids, request for proposals and solicitations with sufficient lead time to provide adequate notice and opportunity to MBEs and WBEs to participate;

8. Limit competition for negotiated contracts to MBEs and WBEs or a combination of both, when a contract awarding authority is determined by the Commission not to have achieved its utilization goals, unless waiver has been granted by the Commission;

9. Impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this ordinance, which shall include, but are not limited to:

- (a) Refusal to certify the award of a contract;
- (b) Order the suspension of a contract;
- (c) Order the withholding of funds;
- (d) Order the revision of a contract based upon a material breach of contract provisions pertaining to MBE and WBE utilization;
- (e) Disqualification of a bidder, contractor, subcontractor, or other business from eligibility for providing goods or services to the City and County for a period not to exceed five years, with a right to review and reconsideration by the HRC after two years upon a showing of corrective action indicating violations are not likely to recur; and
- 10. Not award any contract to a person or business which is disqualified from doing business with the City and County under the provisions of this ordinance, nor shall any contract be awarded to any person or business which is disqualified from doing business with any governmental agency based on failure to comply with Minority or Women Business Enterprise or contract compliance requirements which are substantially the same as those of this ordinance.

11. Each department of the City and County of San Francisco shall designate a staff person to be responsible for responding to the HRC and to the requirements of this ordinance.

(C) All contracts awarded by the City and County shall include the following requirements, in addition to such other requirements as may be set forth elsewhere:

1. Bid conditions, requests for proposals and all other specifications for contracts awarded by the City and County shall require, where subcontracting is utilized in performing the contract, that the bidder or proposer, prior to the submission of bids or proposals, demonstrate every good faith effort to subcontract or to purchase from MBEs and WBEs. Such specifications shall require the bidder to keep records of such efforts adequate to permit a determination of compliance with the specifications;

2. Bidders, contractors, and subcontractors on all contracts shall be required to sign before a notary an affidavit prepared by the City Attorney, declaring their intention fully to comply with the provisions of this ordinance;

3. Contracts shall incorporate this ordinance by reference and shall provide that the failure of any bidder, contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of contract;

4. Contracts shall provide that in the event any bidder, contractor or subcontractor fails to comply in good faith with any of the provisions of this ordinance the bidder, contractor or subcontractor shall be liable for liquidated damages for each violation in an amount equal to the bidder's, contractor's or subcontractor's net profit on the contract, or 10 percent of the total amount of the contract or \$1,000 whichever is greatest, said amount to be determined by the Director of HRC pursuant to Section 12D.14(A)2. All contracts shall also contain a provision whereby the bidder, contractor or subcontractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County upon demand and may be set off against any monies due to the bidder, contractor or subcontractor from any contract with the City and County of San Francisco;

5. Contracts shall require the contractor during the term of the contract to:

- (a) Fulfill the MBE and WBE participation commitments submitted with their bid or proposal;

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- (b) Continue to make efforts to utilize MBEs and WBEs;
- (c) Require that their subcontractors make every effort to utilize MBEs and WBEs; and,

(d) Maintain records reasonably necessary for monitoring their compliance with the provisions of this ordinance.

6. Whenever contract supplements, amendments or change orders are made which cumulatively increase the total dollar value of the contract by more than 10 percent of the dollar value of the original contract, the contractor shall comply with those provisions of this ordinance which applied to the original contract with respect to the supplement, amendment or change order.

7. All contracts where subcontracting is utilized shall prohibit back contracting to the prime contractor or lower tier subcontracting for any purpose inconsistent with the provisions of this ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to MBE or WBE utilization. If the Director of the HRC has reasons to believe that any bidder, contractor, or subcontractor has failed to comply, in good faith, with the provisions of this subsection, Section 12D.8(C)7, the Director shall be empowered to conduct an investigation and to impose sanctions as set forth in Section 12D.14(A)2 of this ordinance.

(D) All contracts or other agreements between the City and County of San Francisco and other governmental or quasi-governmental agencies, or public corporations, where such agencies receive money from or through the City and County for the purpose of contracting with businesses to perform public improvements, shall require such agencies to comply with the provisions of this ordinance in awarding and administering such contracts.

(E) For the purpose of determining Minority and Women Business Enterprise participation:

Contracts or subcontracts awarded to joint ventures in which one or more MBEs or WBEs are combined with one or more businesses which are not Minority Women Business Enterprises shall be deemed to be awarded to Minority or Women Business Enterprises only to the extent of the Minority or Women Business Enterprises participation in the joint venture. (Amended by Ord. 402-85, App. 8/29/85)

#### SEC. 12D.9. UTILIZATION REQUIREMENTS — PUBLIC WORKS.

(A) For all public works contracts for construction and for architectural and engineering services, the contract awarding authority shall furnish the Director with an informational copy of all bid conditions and requests for proposals, along with a statement identifying all funds provided by any other governmental agency which will be used in payment of the contract. Prior to solicitation of bids or proposals, the Director may make recommendations to the contract awarding authority with respect to provisions pertaining to MBE and WBE utilization.

(B) Contracts for construction, the estimated cost of which exceeds \$15,000, and contracts for architects and engineers, the estimated cost of which is \$30,000 or greater, shall be awarded and administered in accordance with the following standards and procedures:

1. In addition to the requirements set forth in Section 12D.8(B) and elsewhere, bid conditions and requests for proposals shall require bidders and proposers on prime contracts to include in their bid or proposal both MBE and WBE

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participation as subcontractors in the contract in a percentage which equals or exceeds the awarding authority's annual goals for prime contracts. Except as provided in Section 12D.9(B)(2), bids or proposals not including both MBE and WBE participation in an amount which equals or exceeds that required by the bid conditions or request for proposals shall be declared nonresponsive.

(a) Bids and proposals shall identify the particular MBEs and WBEs to be utilized in performing the contract, specifying for each the dollar value of the participation, the type of work to be performed and such information as may reasonably be required to determine the responsiveness of the bid or proposal.

(b) During the term of the contract any failure to comply with the levels of MBE and WBE participation identified in the bid or proposal shall be deemed a material breach of contract.

2. A contract awarding authority or a department may request the Director to waive the requirements of this subsection, or to reduce for the subject contract by the amount of the goals, for either or both MBEs and WBEs, by submitting the reasons therefor in writing to the Director prior to solicitation of bids or proposals.

(a) The Director may grant a waiver or reduction upon determination that:

(i) The reasonable and necessary requirements of the contract render subcontracting or other participation of business other than the bidder or proposer unfeasible; or

(ii) Sufficient qualified Minority and Women Business Enterprises capable of providing the goods or services required by the contract are unavailable in the market area of the project, despite every feasible attempt to locate appropriate Minority and Women Business Enterprises.

(b) Only the requirements of Section 12D.9(B)(1) are waived by a waiver under this paragraph.

(c) Whenever the Director denies a request to waive or reduce a goal, the contract awarding authority may appeal that denial to the Human Rights Commission, whose decision on the request shall be final.

3. All contracts in excess of \$15,000 for construction and/or in an amount \$30,000 or greater for architects and engineers shall contain the following clause:

Contractor agrees that he/she shall actively solicit the employment of minority group members and women. Contractor further agrees that he/she shall actively solicit bids for the subcontracting of goods or services from qualified minority and women businesses. Contractor shall furnish evidence of compliance with these requirements of minority and women employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority and women bidders on the basis of substantially equal proposals in the light most favorable to said minority and women businesses. The contractor shall be required to submit evidence of compliance with this Section as part of the bid.

(C) All architect and engineer selection panels and awarding officers shall give appropriate consideration to the utilization goals of the contract awarding authority in evaluating, recommending and selecting contractors. The Director may assist and direct such panels and the department staff in evaluating the impact of their recommendation or selection on achievement of the contract awarding authority's utilization goals. (Added by Ord. 139-84, App. 4/11/84)

**SEC. 12D.10. UTILIZATION REQUIREMENTS — PURCHASING CONTRACTS.** All contracts awarded by the City Purchaser for the purchase of materials, equipment or supplies covered by purchase orders and term purchase agreements shall be awarded and administered in accordance with the following standards and procedures:

(A) The City Purchaser shall solicit and obtain bids and quotations from MBEs and WBEs certified by the Commission to supply the required materials, equipment, supplies or services.

(B) For purchases upon quotations of \$5,000 or less, the Purchasing Department shall grant preference to MBEs and WBEs pursuant to the City Purchaser's authority under Section 21.5 of the Administrative Code to accept other than the lowest quotations if the City Purchaser believes that the public interest would best be served.

(C) For expenditures for the purchase of materials, supplies, equipment or contractual services, estimated by the City Purchaser to exceed \$5,000, the City Purchaser shall grant preference to MBEs or WBEs even when the bid is other than the lowest gross price or unit cost in accordance with Section 12D.8.B(3) of this ordinance and pursuant to the City Purchaser's authority under Section 21.6 of the Administrative Code.

(D) The City Purchaser shall maintain, with the assistance of the Director, a current list of Minority and Women Business Enterprises certified by the Commission to provide each of those commodities which the City Purchaser indicates are required by the City and County. The City Purchaser shall notify the Director prior to solicitation of bids or quotations whenever no such certified businesses are available, unless the Director waives such notification based on the known unavailability of such qualified businesses to perform a particular contract. The Director shall attempt to identify qualified businesses, and if successful, shall notify the City Purchaser of their availability; the Purchaser shall provide MBEs and WBEs every practical opportunity to submit bids or quotations. (Added by Ord. 139-84, App. 4/11/84)

**SEC. 12D.11. UTILIZATION REQUIREMENTS — CONCESSION, FRANCHISE AND LEASE.** For all leases in which the City is the lessor, all contracts for concessions or franchises shall be awarded and administered in accordance with the following standards and procedures:

(A) City departments shall solicit proposals from MBEs and WBEs qualified to enter into leases or concession contracts. Whenever a department, after investigation, determines that no such qualified enterprises are available, the Director shall be so notified prior to the signing of the lease or award of the concession contract, unless the Director waives such notification based on the known unavailability of such qualified businesses to perform a particular contract. The Director may attempt to identify such qualified businesses, and if successful, shall notify the contract awarding authority of their availability. The contract awarding authority shall provide such MBEs and WBEs an opportunity to submit bids or proposals.

(B) All requests for concession or lease proposals shall require concessionaires or lessees to make every good faith effort to utilize MBEs and WBEs as subconcessionaires or sublessees if subconcessionaires or sublessees are used.

Concession proposers shall be required to submit their projected utilization of MBEs and WBEs along with a description of the efforts made to utilize such businesses.

(C) All requests for or extensions of or amendments to franchises shall require franchisees to make every good faith effort to utilize MBEs and WBEs as suppliers. Franchisees shall be required to submit their projected utilization of Minority and Women Business Enterprises.

(D) The following clause shall be contained in all concessions, franchises, and leases:

Contractor agrees that he/she shall actively solicit the employment of minority group members and women. Contractor further agrees that he/she shall actively solicit bids for the subcontracting of goods or services from qualified minority and women businesses. Contractor shall furnish evidence of compliance with these requirements of minority and women employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority and women bidders on the basis of substantially equal proposals in the light most favorable to said minority and women businesses. The contractor shall be required to submit evidence of compliance with this Section as part of the bid.

(Added by Ord. 139-84, App. 4/11/84)

**SEC. 12D.12. UTILIZATION REQUIREMENTS — CONSULTANTS, PROFESSIONAL SERVICES AND OTHER CONTRACTS.** (A) For all contracts for consultants or other services, the contract awarding authority shall furnish the Director with an informational copy of all bid conditions and requests for proposals, if any, along with a statement identifying all funds provided by any other governmental agency which will be used in payment of the contract. Prior to solicitation of bids or proposals, the Director may make recommendations to the contract awarding authority with respect to provisions pertaining to MBE and WBE utilization.

(B) Contracts for consultant or other services, the estimated cost of which exceeds \$10,000, shall be awarded and administered in accordance with the following standards and procedures:

1. The contract awarding agency shall solicit bids or proposals from MBEs and WBEs certified to provide the specified services. MBEs and WBEs shall be provided every practical opportunity to submit bids or proposals.

2. Bids and proposals shall identify the particular MBEs and WBEs to be utilized in performing the contract, specifying for each the dollar value of the participation, the type of work to be performed and such information as may reasonably be required to determine the responsiveness of the bid or proposal.

3. During the term of the contract any failure to comply with the levels of MBE and WBE participation identified in the bid or proposal shall be deemed a material breach of contract.

(C) All consultant selection panels and awarding officers shall give appropriate consideration to the utilization goals of the contract awarding authority in evaluating, recommending and selecting contractors. The Director may assist such panels and the department staff in evaluating the impact of their recommendation or selection on achievement of the contract awarding authority's utilization goals.

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(D) All City and County departments, commissions, boards, officers and employees, in the deposit of City and County funds and performance of their other official duties, shall make every good faith effort to equitably utilize the services of Minority Business Enterprises and Women Business Enterprises. Such services shall include, but are not limited to, the financial services of banks, savings and loan companies and other commercial financial institutions, arrangement of travel and accommodations when traveling on official City and County business, and legal services to City and County departments. Commissions and boards shall submit to the Director on an annual basis a written report on the efforts made pursuant to this subsection.

(E) The City Treasurer, the Controller, and the Retirement Board shall report annually to the Director, with copies to the Mayor or the Chief Administrative Officer, their utilization of institutions which are MBEs and WBEs. (Added by Ord. 139-84, App. 4/11/84)

**SEC. 12D.13. EXCEPTIONS AND WAIVERS.** (A) The Director may waive the utilization requirements of this ordinance for specific contracts under the following circumstances:

1. Whenever the Director finds, with the advice of the contract awarding authority, that needed goods or services are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City and County under provisions of Section 12D.8(B)(10) of this ordinance, or from doing business with any governmental agency based on a failure to comply with Minority or Women Business Enterprise or contract compliance requirements;

2. If the contract awarding authority certifies in writing to the Director that the contract is necessary to respond to an emergency which endangers the public health or safety; provided, that such certificates shall be made prior to the contract award.

(B) The Mayor, using the definition of emergency specified in the Charter, may waive the requirements of this ordinance for the duration of that emergency. (Added by Ord. 139-84, App. 4/11/84)

**SEC. 12D.14. MONITORING, REPORTING AND COMPLIANCE.** (A) The Commission is empowered to adopt rules and regulations necessary and appropriate to implement this ordinance. The Director shall monitor compliance with these requirements during the term of the contract.

1. Noncompliance. If the Director determines that there is cause to believe that a contractor or subcontractor has failed to comply with any of the requirements of this ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to MBE or WBE utilization, the Director shall notify the contract awarding authority and shall attempt to resolve the noncompliance through conciliation. If the noncompliance cannot be resolved, the Director shall submit to the Human Rights Commission and the contractor a written Finding of Noncompliance. The Human Rights Commission shall give the contractor an opportunity to appeal the Finding, and if the Commission concurs with the finding of the Director, it shall impose such sanctions or take such other action as will effectuate the purposes of this ordinance.

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2. Willful or Bad Faith Noncompliance. If the Director has reason to believe that any bidder, contractor or subcontractor has failed to comply in good faith with any of the provisions of this ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to MBE or WBE utilization, the Director shall be empowered to conduct an investigation and to impose sanctions for each violation of this subsection. Such sanctions shall include but are not limited to:

- (a) Declare the bidder, contractor or subcontractor nonresponsive and ineligible to receive the award;
- (b) Declare the bidder, contractor or subcontractor an irresponsible bidder and disqualify the bidder, contractor or subcontractor from eligibility for providing goods or services to the City and County for a period of five years, with a right of review and reconsideration by the HRC after two years upon a showing of corrective action indicating violations are not likely to recur;
- (c) Determine that the bidder, contractor or subcontractor has failed in good faith to comply with the provisions of this ordinance pursuant to the provision in the contract contemplated by Section 12D.8(C)4 of the ordinance, calculate the liquidated damages for which the bidder, contractor or subcontractor shall be liable.

Thereafter the Director shall send a written notice to the Controller, the Mayor and to all contract awarding authorities or City and County department officials overseeing any contract with the bidder, contractor or subcontractor that a determination of a bad faith compliance has been made and that all payments due the bidder, contractor or subcontractor shall be withheld as agreed to by the bidder, contractor or subcontractor and the City and County pursuant to Section 12D.8(C)4.

In addition, the Director shall transmit to the Bureau of Delinquent Revenues a report of the determination of liability and ask the Bureau of Delinquent Revenues to coordinate efforts with the Controller and other applicable City departments to ensure that the liquidated damages are paid to the City.

The bidder, contractor or subcontractor may appeal the Director's decision to the Human Rights Commission, who may sustain, reverse or modify the Director's findings and sanctions imposed or take such other action as will effectuate the purposes of this ordinance.

(B) The Commission shall submit an annual report to the Mayor, the Chief Administrative Officer and the Board of Supervisors on the progress of the City and County toward the utilization goals established by Section 12D.7 of this ordinance, together with an identification of problems and specific recommendations for improving the City and County's performance.

(C) The Director may require such reports, information and documentation from contractors, bidders, contract awarding authorities and the head of any department, division, or office of the City and County, as are reasonably necessary to determine compliance with the requirements.

(D) In addition to the requirements set forth in Section 12D.14(C), awarding authorities shall maintain accurate records for each contract awarded, its dollar value, the nature of the goods or services to be provided, the name of the contractor awarded the contract, the efforts made by said contractor to solicit bids from and

award the contract to MBEs and WBEs and all subcontracts awarded by the contractor, identifying for each its dollar value, the nature of the goods or services provided, and the name of the subcontractor.

(E) Each contract awarding authority is to include in its departmental Management-by-Objectives, objective measures with a quarterly target for the total dollar amount awarded to MBEs and WBEs.

(F) Contractors and consultants must negotiate an affirmative action agreement with the Director which shall set the requirements of the Human Rights Commission in conformance with Chapter 12B of the Administrative Code.

(G) Whenever the Director finds after investigation that the contract awarding authority has failed to comply with the provisions of this ordinance, a written Finding of Noncompliance within a specified time period specifying the nature of the noncompliance shall be transmitted to the contract awarding authority, to the Commission and to Mayor and

The Director shall attempt to resolve any noncompliance through conference and conciliation. Should such attempt fail to resolve the noncompliance, the Director shall transmit a copy of the Finding of Noncompliance along with a finding that conciliation was attempted and failed to the Commission which shall notify the contract awarding agency to take appropriate action to secure compliance.

(H) When the contract awarding official has been determined to be culpable in the Finding of Noncompliance, that factor shall be communicated to the Mayor or the Chief Administrative Officer.

(I) If the Director has reason to believe that any person has knowingly made, filed, or caused to be made or filed with the City any materially false or misleading statement or report made in connection with this ordinance, the Director shall report that information to the City Attorney for appropriate action under the San Francisco Municipal Code. The Director shall be empowered to conduct an investigation and for each violation of this Subsection, 12D.14(I), to impose sanctions as set forth in Section 12D.14(A)2. (Amended by Ord. 513-84, App. 12/21/84)

SEC. 12D.15. REVIEW. (A) The Commission shall review and report to the Board of Supervisors, the Chief Administrative Officer and the Mayor annually on the extent of MBE and WBE participation in City and County prime contracts and procurements, including but not limited to: The purchasing of materials, supplies, equipment, insurance and contractual services, contracts, franchises, leases, concessions or other agreements involving the repair or construction of public works and improvements. If in the opinion of the Commission, the objectives of this ordinance have been achieved in whole or in part, the Commission shall recommend to the Board of Supervisors that those sections of the ordinance which have met their objectives be repealed.

This ordinance shall expire five years from its effective date unless the Human Rights Commission, after conducting hearings, finds that the purposes identified in Section 12D.3 have not yet been achieved, in which case it shall certify said finding to the Board of Supervisors no later than 200 days prior to the effective expiration dates. Thereafter by following the above described procedure the ordinance may be extended for additional three year periods. (Added by Ord. 139-84, App. 4/11/84)

SEC. 12D.16. SEVERABILITY. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances. (Added by Ord. 139-84, App. 4/11/84)



# APPENDIX G

## CONSTRUCTION CONTRACTS AWARDED CERTIFIED MBE /WBEs

CITY AND COUNTY OF SAN FRANCISCO  
COMPARATIVE ANALYSIS  
FY 85-86 and FY 86-87

Fiscal Reporting Period	Total Number of Construction Contracts Awarded	Total Contract Dollar Amount Awarded	WHITE	MBE	WBE	BLACK	HISPANIC	ASIAN/PAC. IS.	FILIPINO	AMER. IND ALAS. NAT.
FY 85-86	152	\$ 98,067,131	\$ 69,387,184	\$ 28,068,719	\$ 611,228	\$ 3,077,701	\$18,454,619	\$ 6,536,399	0	0
% of total contracts		100%	70.7%	28.6%	.6 %	3.1%	18.8%	6.6%	0	0
FY 86-87	395	\$ 62,249,286	\$ 37,482,994	\$ 23,494,521	\$ 13,821	\$ 5,189,930	\$14,725,261	2,680,075	\$ 899,255	0
% of total contracts		100%	60.2%	37.7%	.02%	8.3%	23.6%	4.3%	1.4%	0

\* does not include contracts awarded by Housing Authority or Redevelopment Agency.

PPW:belp



PURCHASE ORDERS AWARDED BY  
PURCHASING DEPARTMENT  
CITY AND COUNTY OF SAN FRANCISCO  
COMPARATIVE ANALYSIS  
FY 85-86 and FY 86-87

Fiscal Reporting Period	Total Number of Purchase Orders Awarded	Total Contract Dollar Amount Awarded	WHITE	MBE	WBE	BLACK	HISPANIC	ASIAN/PAC. IS.	FILIPINO	AMER. IND. ALAS. NAT.
FY 85-86	16,500	\$46,741,791	\$39,291,824	\$3,384,329	\$2,085,952	\$392,933	\$2,173,815	\$707,276	\$110,305	0
% of total contracts	100%		84%	7.2%	4.4%	.8%	4.6%	1.5%	.24%	0
FY 86-87	14,024	\$36,447,243	\$29,362,355	\$5,071,429	\$2,013,459	\$1,036,832	\$1,213,152	\$2,778,409	\$43,036	0
% of total contracts	100%		80.5%	13.9%	5.5%	2.8%	3.3%	7.6%	.1%	0

ppw:jy  
6/22/88

PERSONAL SERVICE CONTRACTS AWARDED BY

CITY AND COUNTY OF SAN FRANCISCO  
COMPARATIVE ANALYSIS  
FY 85-86 and FY 86-87

Fiscal Reporting Period	Total Number of Personal Service Contracts Awarded	Total Contract Dollar Amount Awarded	WHITE	MBE	WBE	BLACK	HISPANIC	ASIAN/PAC. IS.	FILIPINO	AMER. IND. ALAS. NAT.
FY 85-86	5,113	\$42,165,227	\$21,224,787	\$20,005,983	\$934,457	\$466,189	\$103,534	\$19,378,810	\$57,450	0
% of total contracts		100%	50.3%	47.4%	2.2%	1.1%	.2%	45.9%	.1%	0
FY 86-87	760	\$24,868,357	\$17,606,389	\$3,881,721	\$996,639	\$2,711,942	\$399,423	\$770,215	\$101	0
% of total contracts		100%	70.7%	15.6%	4.0%	10.9%	1.6%	3.0%	.0004%	0

PPW:jy  
6/22/88



# APPENDIX H

## CITY AND COUNTY OF SAN FRANCISCO COMPARATIVE ANALYSIS OF MBE/WBE PARTICIPATION DATA FY 84-85/85-86/86-87

	<u>FY 84-85</u>	<u>FY 85-86</u>	<u>FY 86-87</u>
1). Total Number of Contracts awarded	18,075	23,873	16,136
2). Total Eligible Contract Dollars	\$ 151,487,810	\$ 216,762,023	\$ 151,671,120
3). Total MBE Amount	20,702,353	55,108,159	36,038,416
4). Percentage of MBE	13.6%	25.4%	23.7%
5). Total WBE Amount	5,651,391	3,971,382	3,818,357
6). Percentage of WBE	3.7%	1.8%	2.5%
7). Total Certified and Noncertified Firms			

### A Minority Business Enterprises MBEs

1. HRC Certified MBEs	55,108,159	36,038,416
2. Non-certified Firms reported by departments for MBE status/credit (not certified by HRC)	4,742,491	4,677,065

### B. Women Business Enterprises WBEs

1. HRC certified WBEs	3,971,382	3,818,357
2. Non-certified Firms Reported by departments for WBE status/credit(not certified by HRC)	2,354,427	2,682,135

### Participation by Group Breakdown:

White	\$ 125,134,066	150,585,564	104,455,117
% of total	82.6%	69.5%	68.8%
Black	4,471,577	5,196,262	11,211,042
% of total	2.9%	2.4%	7.3%
Hispanic	3,184,564	20,794,712	16,669,478
% of total	2.1%	9.6%	10.97%
Asian/Pacific Islander	9,030,217	28,802,017	6,876,382
% of total	5.9%	13.2%	4.5%
Filipino	6,877	315,168	1,281,544
% of total	.004%	.1%	.8 %
American Indian/Alaskan Native	12,000	0	0
% of total	.007%	0%	0





# APPENDIX I

## San Francisco - Oakland SMSA Minority and Women Owned Establishments

Type of Establishment	SMSA Total	WBE	Black B.E.	Asian, Amer. Indian, others B.E.	Spanish B.E.	Minority B.E.
Construction	5343	345	326	294	292	912
Manufacturing	5187	647	123	386	117	626
Transportation & Public Utilities	2609	198	209	191	131	591
Wholesale Trade	6458	323	54	329	58	441
Retail Trade	18,965	3,860	1,199	3,252	856	5,307
Finance, Insurance, Real Estate	8830	1,852	348	825	277	1,450
Selected Services	24,013	9,909	3,130	3,934	1,652	8,716
Other Industries *	721	230	77	684	103	864
Industries not classified	1122	684	266	247	147	600
TOTAL	73,248	18,048	5,732	10,142	3,633	19,507

\* includes agriculture, forestry, fishing and other industries

LR:gm  
2/29/64

San Francisco - Oakland SMSA  
Minority and Women  
Owned Establishments

Type of Firm	SMSA Total	Black B.E. % of SMSA	Spanish B.E. % of SMSA	Asian et al % of SMSA	MBE % of SMSA	WBE % of SMSA
Construction	5343	6.1%	5.47%	5.50%	17.07%	6.46%
Manufacturing	5187	2.37%	2.26%	7.44%	12.07%	12.47%
Transportation & Public Utilities	2609	10.31%	5.02%	7.32%	22.65%	7.59%
Wholesale Trade	6458	0.83%	0.9%	5.09%	6.83%	5.0%
Retail Trade	18,905	6.32%	4.51%	17.15%	27.98%	20.35%
Finance, Insurance, Real Estate	8830	3.94%	3.14%	9.54%	16.42%	20.97%
Selected Services	24,013	13.03%	6.88%	16.38%	36.29%	41.27%
Other Industries *	721					
Industries not classified	1122	18.46%	13.10%	22.01%	53.47%	60.96%
TOTAL**	72,527	7.8%	4.87%	13.04%	25.70%	24.57%

\*includes agriculture, forestry, fishing and other industries  
\*\*exclusive of other industries

San Francisco  
Minority and Women Owned Firms  
(by number of firms)

Type of firm	San Francisco Total	Black owned B.E.	Spanish owned B.E.	Asian et al owned B.E.	Minority B.E.	Women B.E.
Construction	948	72	53	165	290	101
Manufacturing	1548	43	24	258	325	254
Transportation & Public Utilities	942	63	35	129	227	71
Wholesale Trade	2151	15	17	215	247	138
Retail Trade	5400	311	241	1630	2182	1189
Finance, Insurance, Real Estate	3206	61	86	433	580	458
Selected Services	8198	919	481	1980	3380	3290
Other Industries *	72	11	18	49	78	34
Industries not classified	359	52	42	113	307	249
TOTAL	22,824	1,547	997	4,972	7,516	5,784

\* includes agriculture, forestry, fishing and others

GR:gm  
2/24/84













